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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.07.2024

CORAM

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**

**Crl.OP.No.15538 of 2024**

Sudhakar

... Petitioner

Vs

The State Rep by  
Inspector of Police  
Virinchipuram Police Station,  
Vellore District.  
(Cr.No.08 of 2020)

... Respondent

**Prayer:** Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the entire records and set aside the order in Crl.MP.No.1641 of 2024 in CA.No.37 of 2024 vide order dated 20.06.2024 on the file of the Sessions Division of Vellore District (Principal Sessions Judge, Vellore District).

For Petitioner : Mr.M.Sathish Kumar

For Respondent : Mr.K.M.D.Muhilan  
Government Advocate (Crl.Side)

**ORDER**

The petitioner herein without surrendering himself, on conviction, had filed an application for suspension of sentence before the appellate court. The trial court has convicted him and NBW already issued against



this petitioner and he has to surrender before seeking suspension of sentence and hence, the appellate court, had dismissed his application.

Being aggrieved, the present petition is filed under Section 482 of Cr.P.C.,

2. This court, on perusing the records, finds that the petitioner was convicted by the trial court and the suspension of sentence for 30 days was granted. Thereafter, the petitioner has moved the appellate court.

3. When this application for suspension of sentence was taken up for consideration, it was after the 30 days time granted by the trial court to surrender. Hence, NBW been issued. Therefore, the lower appellate court refused to entertain the suspension of sentence for the absence of mens rea.

4. This court finds that there is no error in the said order. Hence this petition is dismissed with a liberty to the petitioner to file an application for suspension of sentence and seek for recall of warrant. This court directs the petitioner to appear before the court below and surrender and get an order recalling the warrant and produce surety and



seek for suspension of sentence. If the petitioner surrenders and gets the warrant recalled on production of sureties, the application for suspension of sentence be considered on the same day itself.

**03.07.2024**

Index: Yes/No  
Speaking /Non-speaking Order  
gv

To

1. The State Rep by  
Inspector of Police  
Virinchipuram Police Station,  
Vellore District.  
(Cr.No.08 of 2020)
2. The Public Prosecutor,  
High Court of Madras,  
Chennai.



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**Dr.G.JAYACHANDRAN,J.**

gv

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