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CrI.O.P.No.16538 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:15.07.2024

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

CrI.O.P.No.16538 of 2024

R.Viji

.. Petitioner

/versus/

The State rep.by
The Inspector of Police,
Bagayam Police Station,
Vellore District.
(Crime No.361 of 2015)

.. Respondent

Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the entire records in pursuant to the CrI.M.P.No.1224 of 2024 in C.A.No.24 of 2024 on the file of the Court of Sessions Division of Vellore District vide order dated 10.06.2024 and set aside the same and consequently suspend the sentence imposed in the C.C.No.576 of 2016 on the file of the Judicial Magistrate No.1, Vellore, Vellore District vide order dated 09.11.2023 and set aside the same.

For Petitioner	:Mr.M.Sathish Kumar
For Respondent	:Mr.S.Udaya Kumar
	Govt.ADvocate (CrI.Side)



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ORDER

The petitioner herein has been committed in C.C.No.576 of 2016 on the file of the Judicial Magistrate No.1, Vellore. He was found guilty and convicted for the offence under Section 279 of IPC and imposed fine of Rs.1000/- in default, to undergo one month SI; for the offence under Section 338 of IPC and imposed fine of Rs.1000/- in default, to undergo one month SI; and for the offence under Section 304-A of IPC and sentenced to undergo one year SI and imposed fine of Rs.5000/- in default to undergo 3 months SI.

2. On the date of the judgment, the petitioner was not present and therefore, warrant has been issued against him as an absconding accused. He has preferred an appeal along with a petition for suspension of sentence. The lower appellate Court has taken the appeal on file and assigned Crl.A.No.24 of 2024, however, the lower appellate Court has dismissed the petition for suspension of sentence on the ground of warrant has already been issued by the trial Court and initial, period of suspension of sentence 30 days has already been expired. Challenging the said order, the present petition is filed.



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3. This Court on perusal of the records and facts, finds that there is no error in the order passed by the lower appellate Court and dismissed the petition for suspension of sentence. It is always open to the petitioner herein to appear before the Judicial Magistrate and seeks suspension of sentence citing reason and get the warrant recalled. The petitioner shall surrender before the trial Court within 15 days from today. If such petition is filed, the Judicial Magistrate may consider the petition and pass appropriate orders on the date of surrendering. After recalling the warrant within 7 days, the petitioner shall approach the lower appellate Court for suspension of sentence and seeks remedy.

4. With the above observations, this Criminal Original Petition is disposed of.

15.07.2024

Index:yes/no
Neutral Citation:yes/no
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To:

- 1.The Principal Sessions Judge,
The Court of Sessions Division of Vellore District.
- 2.The Judicial Magistrate No.1, Vellore, Vellore District.
- 3.The Inspector of Police, Bagayam Police Station, Vellore District.
- 4.The Public Prosecutor, High Court, Madras.

DR.G.JAYACHANDRAN,J.



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