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CrI.O.P.No.18240 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2024

CORAM

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

CrI.O.P.No.18240 of 2024

M.Lakshmaamma

... Petitioner

Vs.

M.Babu

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to set aside the order dated 16.07.2024 made in CrI.M.P.No.19457 of 2024 in CrI.A.No.504 of 2024 passed by the learned Principal Sessions Judge and suspend the order of sentence passed by the learned XIX Metropolitan Magistrate Court, Egmore at Allikulam, Chennai by a judgment on 10.06.2024 in C.C.No.1938 of 2022.

For Petitioner : Mr.Subramanya

ORDER

The petitioner herein is the convict in C.C.No.1938 of 2022 on the file of the XIX Metropolitan Magistrate, Egmore. He was sentenced to undergo 6 months Simple Imprisonment and pay the compensation of Rs.2,50,000/- within a period of two months failing which two months Simple Imprisonment. The Judgment was delivered on 10.06.2024. On the date of Judgment, the trial Court suspended the sentence for the period of 30 days to enable the petitioner herein to approach the appellate



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Court and seek remedy.

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2. The petitioner had presented his appeal and suspension of sentence application on 09.07.2024. After curing the defect, it was represented on 12.07.2024. The lower appellate Court taking note of the fact that 30 days period granted to prefer appeal been expired, assuming that the trial Court by the time could have issued conviction warrant, declined to entertain the application filed for suspension of sentence. Being aggrieved, the present petition is filed.

3. This Court finds that on the 30th day when the period granted by the trial Court goes to expire, application for suspension of sentence with defect was filed and after curing the defect, it was again represented two days later. Therefore, the lower appellate Court has thought fit not to entertain the application for suspension of sentence. The petitioner herein submits that his application was presented in time, but taken up on file after expiry of 30 days. Hence the valuable right of the petitioner cannot be deprived on assumption.

4. Section 148 of N.I.Act enables the convicted accused to seek



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for suspension of sentence in the appeal and sentence may be suspended on condition directing the convicted accused to deposit 20% of the compensation amount. Therefore, in order to meet the ends of justice, it is appropriate to enable the petitioner herein to avail his right of suspension of sentence. The petitioner is directed to deposit a sum of Rs.50,000/- being the 20% of the compensation amount in the account of C.C.No.1938 of 2022 on or before 09.09.2024 (60th day from the date of filing his suspension of sentence application before the lower appellate Court) and furnish two sureties for a sum of Rs.25,000/- each and execute a bond and shall appear before the appellate Court on every hearing date till the disposal of the appeal.

5. With the above directions, this Criminal Original Petition is allowed.

31.07.2024

Index : Yes/No

Neutral Citation : Yes/No

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Dr.G.JAYACHANDRAN,J.

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To



CrI.O.P.No.18240 of 2024

The XIX Metropolitan Magistrate Court,
Egmore at Allikulam, Chennai

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