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Crl.O.P.No.18382 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2024

CORAM

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

Crl.O.P.No.18382 of 2024

V.S.Dinakar

... Petitioner

Vs.

M/s.Sonigra Sales Corporation,
Represented by its Managing Director
and by its Authorized Signatory,
Deepak Kumar

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to call for the records in Crl.M.P.No.18261 of 2024 in C.A.No.476/2024 (now pending on the file of the learned XVII Judge, Chennai) and set aside the order of the learned Principal Sessions Judge, Chennai passed in Crl.M.P.No.18261 of 2024 dated 04.07.2024.

For Petitioner : Mr.N.Ravishankar Vallatharasu

ORDER

The petitioner herein was found guilty by the Metropolitan Magistrate Fast Track Court II, Chennai, for an offence under Section 138 of Negotiable Instruments Act and sentenced him to undergo 6



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months Simple Imprisonment and pay a compensation of Rs.1,00,000/-.

On the date of judgment, the petitioner did not appear and therefore, warrant was issued against him by the trial Court.

2. Challenging the order passed in S.T.C.No.2122 of 2022, the petitioner preferred Criminal Appeal before the Principal Sessions Judge, Chennai in Crl.A.No.476/2024. Along with appeal, he has preferred an application for suspension of sentence. The lower appellate Court has dismissed the application for suspension of sentence on the ground that on the date of judgment, the petitioner was absent and Non Bailable Warrant was issued against him and the same is pending. Hence sentence cannot be suspended without the convict present personally before the trial Court and surrender. Challenging the same, the present Criminal Original Petition is filed.

3. On perusing the records, this Court finds that as on date the petitioner herein is an absconding convict and warrant is pending against him. As pointed out by the lower appellate Court, it is appropriate for him to surrender before the trial Court and seek further remedy. The



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petitioner cannot expect relief in extantia after defining the Court orders.

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4. The learned counsel appearing for the petitioner states that the petitioner is ready to deposit 20% of the compensation amount to consider his application for suspension of sentence. If he is ready to deposit 20% of the compensation amount, he may do so before the trial Court and seek for recall of warrant and thereafter approach the lower appellate Court for suspension of sentence in accordance with law.

5. In view the above, this Criminal Original Petition is dismissed.

01.08.2024

Index : Yes/No

Neutral Citation : Yes/No

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To

1.The Principal Sessions Judge, Chennai

2.The XVII Judge, Chennai



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Dr.G.JAYACHANDRAN,J.

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