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Crl. O.P. No.19066 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.08.2024

CORAM:

THE HONOURABLE Dr.JUSTICE G.JAYACHANDRAN

Crl. O.P. No.19066 of 2024

R.Raghu

... Petitioner

Vs

C.Chandraprakasam (deceased)
Rep. by Legal-heir C.Vimalraj

... Respondent

PRAYER: Criminal Original Petition filed under Section 528 of BNSS, 2023, to set aside the order passed by the learned Principal Sessions Judge in Crl.M.P. No.20828 of 2024 in Crl.A. No.532 of 2024 dated 29.07.2024 and suspend the sentence passed by the trial court in C.C. No.2676 of 2018 and enlarge the petitioner on bail.

For Petitioner : Mr.C.R.Malarvannan

ORDER

The Petitioner herein is the appellant in Crl.A. No.532 of 2024 on the file of Principal Sessions Judge, Chennai. He was convicted for an offence under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo



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three months simple imprisonment and to pay a compensation of Rs.30.00 lakhs with interest at the rate of 3% per annum from the date of dishonour of cheque till the date of judgment.

2. The petitioner, along with this appeal sought for suspension of sentence. The said application was dismissed on the ground that the application for suspension of sentence ought to have been filed on or before 25.07.2024, the day on which the suspension of sentence granted by the trial court under Section 389(3) Cr.P.C expired. Having failed to bring the application within the date, the lower appellate court had dismissed the application. Being aggrieved, the petitioner is before this court to set aside the order passed by the lower appellate court and grant suspension of sentence.

3. The learned counsel for the petitioner produced a photocopy of the demand draft for Rs.6,00,000/-, which is 20% of the cheque amount and submitted that having substantially complied the mandate of Section 148 of the Negotiable Instruments Act, his application for suspension of sentence may be considered sympathetically.

4. This court, having satisfied with the *bona fide* of the petitioner herein, directs the petitioner to appear before the learned Metropolitan Magistrate,



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FTC-IV, George Town, Chennai and deposit the demand draft drawn for a sum of Rs.6,00,000/-. On production of receipt for the said deposit, the lower appellate court, namely the Principal Sessions Judge, Chennai, shall entertain his application for suspension of sentence and grant the same imposing conditions which are necessary for ensuring the presence of the petitioner before the lower appellate court during the pendency of the appeal.

5. With the above direction, the criminal original petition is disposed of.

No costs.

22.08.2024

Index : Yes / No
Speaking/non speaking order
Asr

Note:

Issue order copy on 27.08.2024

To

- 1) The Principal Sessions Judge, Chennai
- 2) The Metropolitan Magistrate, FTC-IV, George Town, Chennai

Dr.G.JAYACHANDRAN, J.

Asr



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