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Crl. O.P. No. 21682 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl. O.P. No. 21682 of 2024

N. Yuvaraj

.. Petitioner

Vs.

M/s. Shri Balaji Agencies,
Rep., by its Prop., P. Senthilkumar,
No.27, Elumalai Street, Ayanavaram,
Chennai – 600 023.

.. Respondent

Prayer:Criminal Original Petition is filed under Section 482 of Cr.P.C., to set aside the order passed by the Principal Sessions Judge in Crl.A.No.766 of 2023 dated 11.12.2023 and restore the appeal filed against the order passed in C.C.No. 1087 of 2018 on the file of the Metropolitan Magistrate, FTC-II, Egmore @ Allikulam dated 09.06.2023.

For Petitioner : Mr. M.A. Gouthaman

ORDER

The petitioner herein seeks interference of this Court on the order passed by the learned Principal Sessions Judge in Crl.A.No.766 of 2023 dated 11.12.2023 which was dismissed for non prosecution namely



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failure to take cross examination.

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2. The learned counsel appearing for the petitioner submits that C.C.No.1087 of 2018 filed against the petitioner ended in conviction vide judgment dated 09.06.2023. As against the judgment of conviction and sentence, the petitioner has preferred a criminal appeal in Crl.A.No.766 of 2023 on the file of the learned Principal Sessions Judge, Chennai. Along with the appeal, application for suspension of sentence was filed. However, the same was dismissed by the lower Appellate Court.

3. Challenging the said order, the petitioner has preferred Crl.OP.No.6939 of 2024 and this Court disposed of the petition with direction to the petitioner to surrender before the learned Principal Sessions Judge on or before 01.04.2024 and seek for bail.

4. The learned counsel for the petitioner submits that the dismissal of the appeal by the lower Appellate Court for non prosecution has to be set aside, since he has fair chance of succeeding in the appeal and on technical ground that the petitioner has not paid the process fee, appeal cannot be dismissed.



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5. This Court on perusal of the record and on hearing the counsel finds that when the appeal came up for consideration after admission, the petitioner herein who is the appellant has not appeared before this Court, neither process was served on the complainant. Infact, his application for suspension of sentence which was dismissed on 07.12.2023 was challenged much after the dismissal of the appeal. However, the petitioner had not brought to the notice of this Court that on 25.03.2024, there is no appeal pending for suspending the sentence. There is also no indication that subsequent to the order of this Court dated 25.03.2024 the petitioner himself was before the trial Court immediately for restoration of this appeal. The appeal against the conviction been preferred on 23.08.2023 with delay of 44 days. The delay was condoned by the lower Appellate Court in Crl.MP.No.22619 of 2023 on 02.12.2023.

6. Taking note of the fact that the appeal filed with delay application for suspension of sentence was dismissed by the lower Appellate Court with direction to the petitioner to surrender before the trial Court and get bail. Instead the petitioner neither pursued the appeal nor surrendered before the trial Court and sought bail, but filed Criminal



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Original Petition filed before the High Court much after the dismissal of the appeal.

7. In such circumstances this Court finds that the petitioner is not interested in pursuing his appeal and get remedy in accordance with law, but been protracting the proceedings without submitting himself with the process of law. Hence, this Criminal Original Petition is dismissed as devoid of merits.

04.09.2024

Vv

To

1. The Principal Sessions Judge, Chennai
2. The Metropolitan Magistrate,
FTC-II, Egmore @ Allikulam,
Chennai.



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Dr.G.JAYACHANDRAN,J.

Vv

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