



CrI.O.P.No.24969 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2024

CORAM

THE HONOURABLE Dr.JUSTICE **G.JAYACHANDRAN**

CrI.O.P.No.24969 of 2024

Kumaresan

... Petitioner

Vs.

State Represented by,
The Inspector of Police,
Cheyur Police Station,
Tirupur District

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 BNSS, pleaded to modify the order dated 05.09.2024 to suspend the sentence for 30 days instead of two days (i.e. From 05.09.2024 to 07.09.2024) in C.M.P. No. 5521 of 2024 in C.C. No. 158 of 2018 on the file of Judicial Magistrate (FAC), Avinashi

For Petitioner : Mr.P.Tamilvel

For Respondents : Mr.S.Udayakumar
Government Advocate (CrI.Side)

ORDER

The petitioner herein found guilty for offence under Sections 279 & 338 of IPC, sentenced to undergo three months Simple Imprisonment and he shall run the sentence concurrently. On the day of judgment, the



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trial Court has also suspended the sentence, but for two days. Hence the petitioner, on the date of filing the appeal before the Sessions Court, Tiruppur, has not having the advantage of the suspension of sentence. He has approached the trial Court for modification of the period of suspension of sentence, however, the same is pending.

2. The learned counsel appearing for the petitioner states that since the period of suspension of sentence expired, the appellate Court has not taken up the appeal on file. Under Section 389(e) of the Code, the Court which conducts can suspend the sentence for a period of 30 days to enable the accused to prefer appeal. Unfortunately, the Court finds that suspension of sentence only for two days from 05.07.2024 to 07.09.2024. It appears to be a typographical error. However, this was brought to the notice of the trial Court, the trial Court has not passed any order. Under such circumstances, the present petition is filed to prevent miscarriage of justice.

3. Considering the facts of the case, this Criminal Original Petition is allowed by extending the period of suspension of sentence till 21.10.2024. By that time the petitioner shall surrender before the lower



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appellate Court and seek for necessary remedy.

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14.10.2024

Note : Issue Today

Index : Yes/No

Neutral Citation : Yes/No

rpl

To

1.The Judicial Magistrate (FAC), Avinashi

2.The Inspector of Police,
Cheyur Police Station,
Tirupur District

3.The Public Prosecutor,
High Court of Madras,
Chennai.



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Dr.G.JAYACHANDRAN,J.

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