



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.Nos.28937 of 2023

M/s.Sri Guru Manoj Tex
Rep. by its Proprietor Madhesh
D.No.20/50A, Kalignar Nagar
2nd Street, Karungalpatty
Salem

... Petitioner

Vs.

Vadivel Textiles
Rep. by its Proprietor
D.No.1/48, Thatchankattu Palayam
Thokkavadi, Tiruchengode

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to issue direction to the II Additional Sessions Judge, Tiruchengode to accept the surrender of the Petitioner and consider their suspension of sentence Petitions on the same day itself in connection with Crl.MP.No.1 of 2023 in C.A.No.118 of 2023 in STC No.132 of 2020 dated 15.11.2023 on the file of the II Additional Sessions Judge, Tiruchengode.



For Petitioner : Mr.S.P.Venkates
For Respondent : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

This criminal original petition has been filed for a direction to the learned II Additional Sessions Judge, Tiruchengode to accept the surrender of the petitioner and to suspend the sentence imposed against the petitioner, pending CrI.A.No.118 of 2023.

2.Heard the learned counsel for the petitioner and carefully perused the materials available on record.

3.The petitioner faced trial before the learned Judicial Magistrate (FTC) at Tiruchengode in STC No.132 of 2020 for the offence under Section 138 of the Negotiable Instruments Act. The petitioner was convicted for offence under Section 138 of the Negotiable Instruments Act and was sentenced to undergo two months simple imprisonment and to pay a compensation of a sum of Rs.8,55,595/-



under Section 357(3) of Cr.P.C., and in default to undergo one month simple imprisonment.

4. Aggrieved by the above judgment, the petitioner filed an appeal before the Sessions Court. The learned II Additional Sessions Judge, Tiruchengode by an order dated 09.08.2023, suspended the sentence by imposing certain conditions. One of the condition that was imposed by the Court below was that the petitioner should deposit 20% of the compensation amount before the Trial Court within a period of four weeks, failing which, the petition will stand automatically dismissed.

5. The petitioner did not comply with the above condition and hence, by an order dated 15.11.2023, the Court below recorded that the suspension of sentence order stands automatically cancelled and further directed the Trial Court to secure the petitioner and to remit him to the prison to undergo the sentence.

6. The learned counsel for the petitioner submitted that the petitioner faced financial constraints and therefore, was not able to deposit the 20% of the



compensation amount as directed by the Appellate Court. The learned Counsel further submitted that if some time is granted to the petitioner, he will deposit the amount as directed by the Appellate Court.

7.This Court is not convinced with the reasons that have been assigned by the petitioner for not having complied with the order passed by the Court below. If the petitioner was not in a position to deposit the amount, the petitioner ought to have approached the Court and sought for extension of time and the same has not been done by the petitioner. However, considering the facts and circumstances of the case, this Court is inclined to grant one last opportunity to the petitioner to deposit 20% of the compensation amount as directed by the learned II Additional Sessions Judge, Tiruchengode.

8.In view of the above, there shall be a direction to the petitioner to deposit 20% of the compensation amount before the Trial Court on or before 12.01.2024. Till then, the order passed by the Court below dated 15.11.2023, shall be kept in abeyance. If the petitioner deposits the amount within the time frame fixed by this Court, the order passed by the learned II Additional Sessions Judge, Tiruchengode,



dated 09.08.2023 will stand revived. On the other hand, if the petitioner fails to deposit the amount within the time frame fixed by this Court, the order passed by the learned II Additional Sessions Judge, Tiruchengode dated 15.11.2023 will get revived and thereafter, the Trial Court shall secure the petitioner and remit him to the prison to undergo the sentence imposed by the Trial Court.

9.This criminal original petition is disposed of in the above terms.

02.01.2024

Index : Yes/No
Internet : Yes/No
Speaking/Non-Speaking Order
ssr

Note: Issue Order Copy on 03.01.2024

To

- 1.The II Additional Sessions Judge,
Tiruchengode.
- 2.The Public Prosecutor,
High Court, Madras.



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N.ANAND VENKATESH, J

SSI

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