



Crl.O.P.(MD)No.14616 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.14616 of 2024

S.Santhana Mariappan

... Petitioner

Vs.

R.Karthik

... Respondent

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to direct the learned II Additional District and Sessions Judge, Thoothukudi to unnumbered the SR.489 of 2023 in C.A.No.149 of 2023 and dispose of the same on merits within the time frame as fixed by this Court.

For Petitioner : Mr.M.P.Vasandharam

ORDER

The Criminal Original Petition has been filed seeking direction to the learned II Additional District and Sessions Judge, Thoothukudi to number the petition, which came to be filed under Section 389(1) Cr.P.C. for suspension of sentence.



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2. It is not in dispute that the petitioner was convicted for the offence under Section 138 of the Negotiable Instruments Act in C.C.No.7 of 2012 on 08.07.2022 on the file of the Fast Track Court (Magisterial Level), Kovilpatti and the petitioner has preferred an appeal challenging the conviction judgment in C.A.No.149 of 2023.

3. It is also not in dispute that the petitioner has filed a petition in Crl.M.P.No.4913 of 2023 to suspend the sentence of imprisonment and the learned Additional Sessions Judge has passed an order suspending the sentence and directed the petitioner to deposit 20% of the cheque amount before the trial Court.

4. The learned counsel appearing for the petitioner would submit that since the petitioner has not complied with the conditional order passed by the Court, he has filed the present second petition under Section 389(1) Cr.P.C. to suspend the sentence.

5. It is evident from the records that the learned Additional Sessions Judge has returned the petition as to how the second petition is



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maintainable when the earlier order was not complied with. Admittedly, the petitioner has not complied with the order passed in Crl.M.P.No.4913 of 2023.

6. Considering the above, the impugned order returning the petition cannot be found fault with. Hence, this Court is not inclined to interfere with the return made by the learned Additional Sessions Judge. Accordingly, this Criminal Original Petition stands dismissed. The petitioner is at liberty to file an extension petition for depositing the amount as directed by the Court and if such petition is filed, the learned II Additional District and Sessions Judge, Thoothukudi is directed to consider the same in accordance with law.

03.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
csm

To

1.The II Additional District and Sessions Judge,
Thoothukudi.



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K.MURALI SHANKAR,J.

csn

Order made in
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