



CrI.O.P.(MD)No.19775 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.02.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.(MD)No.19775 of 2022

C.Pappa

... Petitioner/Appellant

Vs.

MN.Thinakaran

... Respondent/Complainant

PRAYER:- Petition filed under Section 482 of Cr.P.C., to call for the records and set aside the order in Criminal Appeal S.R.No.1833 of 2022 dated 22.07.2022 on the file of the learned Principal Sessions Judge, Karur and consequently, direct the learned Principal Sessions Judge, Karur to number the Criminal Appeal S.R.No.1833 of 2022.

For Petitioner : Mr.S.Gokul Raj

ORDER

This petition has been filed to set aside the order dated 22.07.2022 passed by the Principal Sessions Judge, Karur, in CrI.A.S.R.No.1833 of 2022 and to further direct the learned Principal Sessions Judge, Karur to number the Criminal Appeal S.R.No.1833 of 2022.



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2.The petitioner/accused is facing trial in C.C.No.828 of 2017 on the file of the Fast Track Court at Magistrate Level, Karur, filed under Sections 138 and 142 of Negotiable Instruments Act by the respondent/defacto complainant. After trial, the case was ended in conviction on 11.04.2022. Against which, the petitioner filed an appeal in Crl.A.SR.No.1833 of 2022 before the learned Principal Sessions Judge, Karur under Section 374 of Cr.P.C., The learned Sessions Judge returned the same on 22.07.2022 and directed the petitioner to either recall the warrant from the trial Court or getting suspension of sentence from the trial Court. Challenging the same, the petitioner filed this petition with the above said prayer.

3.The learned counsel appearing for the petitioner would submit that the trial Court has not issued any non-bailable warrant against the petitioner and the case was ended in conviction. Against which, she filed an appeal in Crl.A.SR.No.1833 of 2022 before the learned Principal Sessions Judge, Karur. The learned Sessions Judge ought to have entertained the appeal by numbering the same and also consider for suspension of sentence. Even in the absence of petition for suspension of sentence before the trial Court, the trial Court has power to order for suspension with condition. However, the learned Sessions Judge has not entertained the appeal is not sustainable one. On the sole ground, the present petition has been filed.



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4.The learned counsel for the petitioner on instructions, would submit that the petitioner is ready to deposit 50% of compensation amount imposed by the trial Court in C.C.No.828 of 2017 before numbering the appeal.

5.In view of the above, this Court is inclined to issue a following directions:-

(i) The petitioner is directed to deposit 50% of the compensation imposed by the trial Court in C.C.No.828 of 2017 before numbering the appeal within a period of 2 weeks from the date of receipt of a copy of this order.

(ii) On such deposit being made, the learned Principal Sessions Judge, Karur, is directed to number the appeal. Thereafter, hear the petitioner as well as the respondent and pass appropriate orders.

6.With the above direction, this Criminal Original Petition is allowed.

23.02.2024

Index : Yes/No
Internet : Yes/No
NCC : Yes/No
dss

Note : The Registry is directed to return the original appeal papers in Criminal Appeal S.R.No.1833 of 2022 to the petitioner to present the same before the trial Court after substituting the Xerox copy of the same.



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M.DHANDAPANI, J.

dss

To
The Principal Sessions Judge,
Karur.

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