

Order is pronounced.

ORDER

The appellant has filed this appeal U/Sec. 374 of the Code of Criminal Procedure, by questioning the judgment of conviction and order of sentence dated 27.11.2023 passed by the Court of the Addl. Civil Judge & J.M.F.C. Sankeshwar, in C.C. No.828/2018, wherein the appellant has been convicted and

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sentenced for the offences punishable U/Sec. 279, 337, 338 and 304A of the I.P.C.

2. In this appeal, the appellant has also filed an application U/Sec.389(1) of the Code of Criminal Procedure, praying to suspend the execution of the sentence to be executed under the impugned judgment of conviction and order of sentence passed by the trial court in the above referred Criminal Case till disposal of this appeal on one of the main grounds that the impugned judgment being not based on the evidence is erroneous and it is liable to be set aside.

3. I have heard the learned counsel for the appellant and perused the case records.

4. A perusal of the case records brings to light that the trial Court has passed the impugned judgment of conviction and order of sentence in C.C. No.828/2018 by convicting and sentencing the appellant for the above said offences holding that the respondent has proved the offences beyond all reasonable doubt.

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5. The question, whether the prosecution has proved the guilt of the appellant beyond all reasonable doubt or not, has to be determined based on the evidence after verifying the trial Court records. At this stage, a prima facie case is made out for granting the relief prayed for in the application. Therefore, I feel it just and proper to suspend the execution of the sentence imposed by the trial Court till disposal of this appeal, subject to the condition that the appellant shall deposit the fine amount imposed by the trial court in the trial court, if not deposited, within 15 days from the date of this order. Therefore, I proceed to pass the following :

ORDER

i) The execution of the sentence under the impugned judgment of conviction and order of sentence delivered by the Court of the Addl. Civil Judge & J.M.F.C. Sankeshwar in C.C. No.828/2018 is hereby SUSPENDED till disposal of this appeal, subject to the condition that

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the appellant shall deposit the fine amount if imposed by the trial court in the trial court, if not deposited, within 15 days from the date of this order.

ii) The office is directed to communicate this order to the trial Court forthwith.

iii) It is made clear that if the fine amount is not deposited within the stipulated time, the trial court has liberty to execute the sentence in accordance with law.

iv) Issue notice to the learned Public Prosecutor.

Call on 31.01.2024.

(Dictated to the Stenographer directly over the computer and typed by him and corrected, signed and then pronounced by me in the Open Court on this the 27th day of December -2023).

**(S. L. CHAVHAN)
VII Addl. District & Sessions Judge,
Belagavi, Sitting at Chikkodi.**