

IN THE COURT OF PRINCIPAL SESSIONS JUDGE, CHENNAI

Present : Thiru.S.Karthikeyan, M.A., M.L., M.Sc., PGDCFS.,

Principal Sessions Judge.

Thursday, the 23rd day of January, 2025.

Crl.M.P.No.1/2025

in

C.A.No.650/2024

in

S.T.C.No.11941/2023

(on the file of the Metropolitan Magistrate, FTC-II, Egmore @ Allikulam, Chennai)

S.Santhosh Kumar

.... Petitioner/Appellant/Accused

Vs.

V.Poornachandran

.... Respondent/Respondent/Complainant.

This petition is coming on this day before this court for hearing in the presence of M/s.E.Thenmozhi, M.Abdul Raguman and M.Prashanth, the counsel for the petitioner and of M/s.T.Suresh, V.K.Kumar, T.Padmashalini and V.Rajeshwari, Counsel for the respondent and upon hearing both sides, this Court delivered the following,

ORDER

1. The appellant in C.A.No.650/2024 has come up with the present application seeking for suspension of sentence passed by the learned Metropolitan Magistrate, FTC-II, Egmore @ Allikulam, Chennai.

2. According to the petitioner, the respondent herein has filed a complaint before the learned Metropolitan Magistrate, FTC-II, Egmore @ Allikulam for the offence punishable u/s 138 of N.I.Act, wherein he was convicted and sentenced to undergo 6 months simple imprisonment and directed to pay compensation to the tune of Rs.50,000/- u/s 357 of Cr.P.C. Aggrieved by the same, the petitioner has preferred the present criminal appeal and moved suspension of sentence, which was dismissed by this court on 2.9.2024. Therefore, the petitioner / appellant has preferred the appeal before the Hon'ble High Court, Madras in Crl.O.P.No.24398/2024 and the same was allowed on condition to deposit 20% of the compensation amount, i.e., Rs.10,000/- before the trial court on or before 17.10.2024. The said condition was complied. Therefore, he has approached this court seeking for suspension of sentence

passed by the learned Metropolitan Magistrate, FTC-II, Egmore @ Allikulam, Chennai.

3. The respondent / complainant has submitted that the petitioner herein has wantonly failed to appear and evaded the process of court. Therefore, on the date of conviction, a Non-Bailable Warrant was issued against him. Further, the petitioner herein though approached the Hon'ble High Court, Madras, he has not complied the condition imposed by the Hon'ble High Court, Madras and surrendered before this court. Though he claimed that he deposited the amount on 17.10.2024 itself, he has not surrendered before this court immediately thereafter. Further, even in the present application, the petitioner has given wrong address and suppressed his correct address with an intention to delay and defeat the execution of the conviction warrant against him. Hence, the learned counsel for the respondent strongly objected to grant suspension of sentence.

4. This court has given its thoughtful consideration to the rival submissions put forth by either side. The petitioner herein was convicted by the learned Metropolitan Magistrate, FTC-II, Egmore @ Allikulam, Chennai and directed him to undergo 6 months simple imprisonment and directed to pay compensation to the tune of Rs.50,000/- Since the petitioner / appellant has not obtained any suspension from the trial court, this court has dismissed the petition filed by the petitioner seeking for suspension of sentence. Aggrieved by the same, the petitioner has approached the Hon'ble High Court, Madras in CrI.O.P.No.24398/2024, wherein the Hon'ble High Court has set aside the order passed by this court and directed the petitioner to deposit 20% of the compensation amount on or before 17.10.2024. According to the petitioner herein, he has deposited the 20% of the compensation amount, i.e., Rs.10,000/- to the credit of STC No.11941/2023 on the file of the Metropolitan Magistrate, FTC-II, Egmore @ Allikulam, Chennai. However, the petitioner has not immediately surrendered before this court seeking for suspension. As contended by the learned counsel for the respondent, the petitioner swearing to the affidavit in the old address and has not disclosed his new address. When this was pointed out by the

learned counsel for the respondent, the petitioner / appellant has submitted an undertaking affidavit that he has not wantonly suppressed the above fact, but, it is only a bonafide mistake. The said undertaking is taken on record. The petitioner herein has complied with the conditions imposed by the Hon'ble High Court, Madras in respect of the deposit before the trial court. There is no time limit was given by the Hon'ble High Court, Madras for surrender before this court. Considering the same, this court is inclined to suspend the sentence pending appeal on the following conditions :

5. Accordingly, the sentence of imprisonment imposed on the petitioner by the lower Court alone is hereby suspended till the disposal of the appeal and the petitioner is ordered to be enlarged on bail on his executing a bond for Rs.10,000/- with two sureties each for a likesum to the satisfaction of the Metropolitan Magistrate, FTC-II, Egmore @ Allikulam, Chennai. Further, the petitioner shall appear before this court daily at 10.30 a.m. until further orders.

Dictated to Steno-typist, typed by him directly, corrected and pronounced by me in open court this the 23rd day of January, 2025.

Principal Sessions Judge

Copy to

The Metropolitan Magistrate, FTC-II, Egmore @ Allikulam, Chennai.