

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

Criminal Petition No. 12324 OF 2023

Between:

Ganta Satyanarayana

... Petitioner/accused

And

1. The State of Telangana., rep by
its Public Prosecutor High Court
For the State of Telangana, at
Hyderabad.
... Respondent No.1/State
2. M/s Laxmi Srinivasa Tractors
Partnership Firm, rep., by its
Managing partner Thummalapally
Bhaskar @ Bhaskar Rao, C/o: Sonalika
Tractors, Gudibanda Road, Kodad
Town and Mandal, Suryapet District.
...Respondent No.2

DATE OF ORDER PRONOUNCED: 15.12.2023

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

- 1 Whether Reporters of Local
newspapers may be allowed to see the Judgments? Yes/No

- | | | |
|---|--|--------|
| 2 | Whether the copies of judgment
may be marked to Law
Reporters/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship
wish to see the fair copy of the
Judgment? | Yes/No |

K.SURENDER, J

*** THE HON'BLE SRI JUSTICE K. SURENDER**

+ CRL.P.No. 12324 of 2023

% Dated 15.12.2023

Ganta Satyanarayana

... Petitioner

And

1. The State of Telangana., rep by
its Public Prosecutor High Court
For the State of Telangana, at
Hyderabad.

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Town and Mandal, Suryapet District.

...Respondent No.2

! Counsel for the Petitioner: Sri Shaik Madar

**^ Counsel for the Respondent: Additional Public Prosecutor
for State**

>HEAD NOTE:

? Cases referred

¹ Crl.O.P.No.28838 of 2011, dated 28.02.2012.

THE HON'BLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION Nos. 12324 of 2023****ORDER:**

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') by the petitioner to quash the docket order dated 29.11.2023 in CrI.M.P.No.1042 of 2023 in C.C.No.507 of 2018 on the file of the Principal Judicial Magistrate of First Class at Kodad. The offence alleged against the petitioner is punishable under Section 138 of Negotiable Instrument Act.

2. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the respondent No.1-State. Perused the record.

3. The complainant, who is the petitioner herein is questioning the order dated 29.11.2023 passed by the Magistrate Court. Initially, when the accused/respondent was convicted, the sentence of imprisonment was suspended for a period of twenty days to enable the accused to prefer an

appeal. However, an application was filed by the accused seeking extension of twenty more days accordingly sentence was suspended.

4. Learned counsel for the petitioner would submit that the learned Magistrate had committed error in granting twenty more days for filing the appeal. The said grant of time is in violation of the provision under Section 389 of Cr.P.C. He has relied on the judgment of the Hon'ble *Madras High Court in Mr.P.Ramakrishnan Vs. Tmt.Rani Rambai*¹ it was held that:-

“The narration of above facts would clearly go to show that the present petition is not only highly misconceived but also it amounts to a clear abuse of process of Court. Under Section 389(3) of Cr.P.C the trial Court has got power to suspend the sentence for a maximum period within which an appeal is to be preferred by the convict as per the provisions of the Limitation Act. The learned Magistrate lacks jurisdiction to grant suspension beyond 30 days from the date

¹ CrI.O.P.No.28838 of 2011, dated 28.02.2012

of imposition of sentence. Therefore, the learned Magistrate was right in returning the petition filed by the petitioner seeking extension of suspension of sentence. It needs to be mentioned that the date of conviction is on 19.10.2011 and the sentence was suspended rightly by the learned Magistrate till 18.11.2011”.

5. In the said judgment, the High Court of Madras found that when the Appeal itself was not pending before the Sessions Court, the question of suspending the sentence by the appellate Court does not arise.

6. In the present case, the accused had preferred an appeal which was numbered as CFR No.144 of 2023. The appeal was filed in time by the accused, however, the appellate Court had not numbered the Appeal and the consequent suspension was not done. In the facts of the present case, the judgment of Madras High Court is not applicable, since the Madras High Court was dealing with the situation where appeal was not pending before Sessions Court. Even otherwise, Section 389 of Cr.P.C does not

prescribe the time within which the trial Court can suspend the sentence. However the trial Court can only grant reasonable time in the facts and circumstances of each case, to enable the convicted accused to present appeal. If the intention of the Legislature was to limit the time frame of suspending the sentence by trial Court, the same would have been expressly mentioned.

7. This Criminal Petition is devoid of merits and dismissed.

Miscellaneous applications pending, if any, in this criminal petition, shall stand closed.

K.SURENDER, J

Date: 15.12.2023
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