

Crl.M.P.No.3363 of 2016
in
Crl.A.No. 219 of 2016

Dr. P.DEVADASS, J.

The sole accused, who has been convicted and sentenced by the learned Special Judge/Chief Judicial Magistrate, Thiruvallur, pending consideration of this Criminal Appeal seeks suspension of his sentence of imprisonment.

2. The accused, a public servant is alleged to have demanded Rs.20,000/- as illegal gratification to discharge his public duty, viz., renewal of drug licence on the request of PW.1. This persecution has been sanctioned by PW.3. Evidence as to laying of the trap and scientific evidence have been adduced.

3. Relying on the above evidence, learned Special Judge found him guilty and sentenced him as under:-

Accused	Conviction under Section	Sentence imposed
Accused	(i) 7 of Prevention of Corruption Act, 1988	one year R.I and fine of Rs.10,000/- in default 3 months simple imprisonment.
	(ii) 13(2) r/w. 13(1)(d) of Prevention of Corruption Act, 1988	two years R.I and fine of Rs.10,000/- in default 3 months simple imprisonment.

Both the sentences were directed to run concurrently. Fine amount paid.

4. Learned counsel for the petitioner/appellant contended that the basic elements demand of bribe and acceptance of the same has not be established beyond reasonable doubts. The evidence of PWs.2, 4 to 6, 9, 10, 12 and 13 were not subjected to cross examination and the defence has been prejudiced. There was no effective defence. The untested testimony of the said witnesses has been used to record a conviction. The conviction is vitiated. That apart, the petitioner/appellant was on bail throughout the trial court proceedings.

5. On the other hand, the learned Additional Public Prosecutor submitted that PW.1 deposed as to the demand of illegal gratification. There is scientific evidence also.

6. I have anxiously considered the rival submissions, perused the impugned Judgment of the Special Judge and also referred to the evidence pointed out by either side. In the facts and circumstances, I see eminently certain arguable points are involved in this Criminal Appeal. They are required to be examined during the hearing in the main Criminal Appeal. I see *prima facie* case in favour of the petitioner. Further, the petitioner was on bail

throughout the trial court proceedings. Fine amount was already paid. It is a fact that it will take some time for the disposal of this Criminal Appeal. There is no allegation that he will flee away from justice, nor he indulged in similar offences, nor he had misused the liberty granted to him during the trial Court proceedings. In the circumstances, I am inclined to grant him appeal bail.

7. Ordered as under:

(i) Appeal bail granted;

(ii) Sentence of imprisonment alone is suspended;

(iii) There shall be two sureties, who shall execute a bond for Rs.15,000/- as well as by the petitioner for a like sum to the satisfaction of the Special Judge/Chief Judicial Magistrate, Thiruvallur.

(iv) Petitioner shall also appear on the first working day of every month at 10.30 a.m before the said Court until further orders.

23.03.2016

mra

(2/2)

Note: Issue order copy on 24.03.2016.

To

1. The Special Judge / Chief Judicial Magistrate
Thiruvallur.
2. The Inspector of Police
Vigilance and Anti Corruption
Kancheepuram.

3. The Additional Public Prosecutor
High Court, Madras.

Dr. P.DEVADASS, J.

mra

Crl.M.P.No.3363 of 2016

in

Crl.A.No. 219 of 2016

(2/2)

23.03.2016