

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Ninth day of March Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice T.MATHIVANAN

CRIMINAL MISCELLANEOUS PETITION No.3619 of 2017

IN CRL A.129/2017

K.M.VENKATAESWARA,

[PETITIONER]

Vs

THE STATE REP BY ITS, [RESPONDENT]
THE DEPUTY SUPERINTENDENT OF POLICE,
VIGILANCE & ANTI CORRUPTION,
VELLORE DISTRICT
CR.NO.14 OF 2004.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal APPEAL No.129 OF 2017 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed in Spl.C.No.4 of 2005 on the file of Special Judge under Prevention of Corruption Act, Chief Judicial Magistrate, Vellore, dated 21.02.2017 and enlarge the petitioner on bail till the disposal of Crl.A.No.129 of 2017.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.129 of 2017 on the file of the High Court and upon hearing the arguments of MR.N.R.ELANGO, SENIOR COUNSEL FOR M/S.R.VIVEKANANTHAN, Advocate for the petitioner and of MR. E.RAJA, ADDL. PUBLIC PROSECUTOR (V & AC) on behalf of the Respondent the court made the following order:-

The petitioner herein stood convicted for the offences under Sections 7 and 13(2) r/w. 13(1)(d) of Prevention of Corruption Act, 1988, in the Special Case No.4 of 2005 on the file of the learned Special Judge (Chief Judicial Magistrate), Vellore and sentenced to suffer two years of Rigorous Imprisonment and to pay a fine of Rs.5,000/-, in default to suffer a further period of three months of Rigorous Imprisonment for the offence under Section 7 and to suffer two years of Rigorous Imprisonment and to pay a fine of Rs.5,000/-, in default to suffer a further period of three months of Rigorous Imprisonment for the offence under Section 13(2) r/w. 13(1)(d) of Prevention of Corruption Act, 1988.

2. The sentences were directed to run concurrently and the period of incarceration already experienced by the petitioner was directed to be given set off under Section 428 of Cr.P.C. The total fine amount of Rs.10,000/- was paid by the petitioner on receipt.

3. It is brought to the notice of this Court that the trial court after recording the conviction and sentence had suspended the sentence imposed on the petitioner till 20.03.2017.

4. This petition has been filed by the petitioner to suspend the sentence till the disposal of the main appeal.

5. Heard Mr.N.R.Elango, Senior Counsel appearing on behalf of Mr.R.Vivekanandan, learned counsel on record for the petitioner and Mr.E.Raja, learned Additional Public Prosecutor for the respondent/Police. This Court has also perused the judgment of the trial court along with the relevant materials.

6. On perusal of the materials placed before this Court, it is understood that the entire case is revolving around the testimonies of PW3, PW4, PW6 and PW14. The learned Senior Counsel for the petitioner has submitted that the petitioner is a duty bound officer and nothing is available on record to connect him with the criminality as alleged by the prosecuting agency.

7. He has added further that the court below had failed to appreciate the evidences of PW2 and PW6 in proper perspective and that PW6 had spoken to in clear terms that when he met PW2 (complainant) he had informed him that for installing a new electric pole, he had to pay a sum of Rs.4,000/- towards the cost. The learned Senior Counsel has also invited the attention of this Court to the evidence given by PW6. On perusal of his evidence, PW6 has deposed that a sum of Rs.1,570/- would be collected for providing single phase connection and a sum of Rs.5,000/- would be collected for providing three phase service connection.

8. According to the learned Senior Counsel, the allegation that the petitioner had demanded a sum of Rs.4,000/- was absolutely baseless and the trial court had abruptly failed to consider and appreciate the evidences adduced by the prosecution witnesses. He has also maintained that on account of swelling in filing of cases on day to day basis, it might not be possible to take up the appeal in the near future. He has also adverted to that the petitioner had got several arguable points to succeed his case and hence he has urged this Court to suspend the sentence imposed on him till the disposal of the main appeal.

9. Having regard to the relevant facts and circumstances arising out of this case, this Court is of considered view that the substantive sentence of imprisonment alone could be suspended.

10. Accordingly, it is ordered that the petitioner shall be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Special Judge under Prevention of Corruption Act, (Chief Judicial Magistrate), Vellore and on further

condition that the petitioner shall report before the said court on the first working day of every month at 10.30 a.m. until further orders.

-sd/-
09/03/2017

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SPECIAL JUDGE UNDER
PREVENTION OF CORRUPTION ACT,
(CHIEF JUDICIAL MAGISTRATE), VELLORE.

2 THE ADDL. PUBLIC PROSECUTOR
FOR (V & AC), HIGH COURT, MADRAS.

3 THE DEPUTY SUPERINTENDENT OF POLICE,
VIGILANCE & ANTI CORRUPTION,
VELLORE, DISTRICT

C.C. to M/S.R.VIVEKANANTHAN Advocate on payment of necessary charges

Order

in
CRL MP.3619/2017

in
CRL A.129/2017

Date :09/03/2017

From 7.2.2001 the Registry is issuing certified
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ths : 09.03.2017