

Crl.M.P.No.5346 of 2017
in
Crl.A.No.128 of 2017

N.SATHISH KUMAR, J.,

This petition has been filed by the petitioner seeking suspension of his sentence of imprisonment.

2. The petitioner/A2 faced trial in C.C. No.19 of 2010 on the file of the XIII Additional Sessions Judge, (for cases under CBI cases) Chennai and the trial Court, by a judgment dated 17.04.2017, convicted the petitioner as follows :

First Charge :

Conviction under Section	Sentence
Section 120(B) r/w.381, 409, 420, 419, 467, 468, 471 IPC and 13(2) r/w.13(1)(d) Prevention of Corruption Act 1988	Four years rigorous imprisonment and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for six months

Second Charge :

Conviction under Section	Sentence
Section 318 r/w.409 IPC	Four years rigorous imprisonment and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for six months

Third Charge :

Conviction under Section	Sentence
Section 467 IPC	Five years rigorous imprisonment and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for six months
Section 468 r/w.471 IPC	Five years rigorous imprisonment and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for six months

Fourth Charge :

Conviction under Section	Sentence
Section 419 IPC	three years rigorous imprisonment and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for six months
Section 420 IPC	Four years rigorous imprisonment and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for six months
Section 467 r/w.471 IPC	Four years rigorous imprisonment and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for six months

Fifth Charge :

Conviction under Section	Sentence
Section 419 IPC	Three years rigorous imprisonment and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for six months
Section 420 IPC	Three years rigorous imprisonment and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for six months

Sixth Charge :

Conviction under Section	Sentence
Section 419 IPC	three years rigorous imprisonment and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for six months
Section 420 r/w.467 IPC	Four years rigorous imprisonment and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for six months
Section 468 r/w.471 IPC	Four years rigorous imprisonment and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for six months

Seventh Charge :

Conviction under Section	Sentence
Section 419 IPC	Three years rigorous imprisonment and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for six months
Section 420 r/w.467 IPC	Four years rigorous imprisonment and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for six months
Section 468 r/w.471 IPC	Five years rigorous imprisonment and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for six months

Eighth Charge :

Conviction under Section	Sentence
Section 419 IPC	Three years rigorous imprisonment and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for six months
Section 420 r/w.467 IPC	Four years rigorous imprisonment and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for six months
Section 468 r/w.471 IPC	Five years rigorous imprisonment and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for six months

3. Challenging the same, the present appeal has been filed along with a petition for suspension of sentence.

4. Earlier, the petition filed by the petitioner for suspension of sentence was dismissed by this Court on 15.03.2017 on the ground that at that stage, suspension of sentence cannot be ordered.

5. Heard the learned counsel for the petitioner and the learned learned Special Public Prosecutor for CBI cases and perused the materials available on record.

6. The main crux of the argument of the learned counsel for the petitioner is that the entire prosecution case allegedly revolves around a CD relied upon by the prosecution, which has not been proved in the manner known to law. Further, this appeal is of the year 2017 and it is unlikely to be taken up in near future, since older appeals are very much pending before this Court. Therefore, having regard to the fact that it will take some time for the

disposal of the criminal appeal and also legal points canvased by the learned counsel appearing for the petitioner with regard to the admissibility of the electronic evidence and the main case itself is allegedly based on the electronic evidence, I am of the view that keeping the petitioner in custody indefinitely without any progress in disposing of the appeal will not serve any purpose to the prosecution. It is not the case of the prosecution that the petitioner is likely to abscond or evade the proceedings.

7. Hence, taking into consideration of the duration of the custody of the petitioner from February, I am inclined to suspend the substantive sentence of imprisonment alone.

8. Accordingly, pending appeal, substantive sentence of imprisonment alone is suspended and the petitioner is released on bail on his executing a bond for a sum of Rs.50,000/- (Rupees fifty thousand only) with two sureties each for a like sum to the satisfaction of the XIII Additional Sessions Judge, Chennai, with further condition that he shall appear before the said court on every Monday at 10.30 a.m., until further orders.

06.06.2017

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NSKJ

Admit this appeal.

Notice to the respondent
returnable by 07.07.2017.

Post the appeal for
arguments on 07.07.2017.

06.06.2017
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