

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Eleventh day of July Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice N. AUTHINATHAN

CRIMINAL MISCELLANEOUS PETITION No.7937 & 7819 of 2017

IN CRL A.365 & 354 /2017

M.MOHAMED HANIFFA, [PETITIONER]
IN CRL.MP.NO.7937/2017 IN CRL.A.365/2017]

M VIJAYAMUTHURAMAN [PETITIONER]
IN CRL.MP.NO.7819/2017 IN CRL.A.354/2017]

Vs

THE STATE [RESPONDENT IN BOTH THE PETITIONS]
REP. BY THE DEPUTY SUPERINTENDENT OF POLICE,
ECONOMIC OFFENCES WING- II,
SALEM DISTRICT

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.365 & 354/2017 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed in C.C.No.3 of 2011 dated 19.06.2017 on the file of the Special Judge, Special Court under TNPID Cases, Coimbatore and enlarge the petitioner on bail, pending disposal of the above Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.365 & 354/2017 on the file of the High Court and upon hearing the arguments of M/S.S.SHANKAR, Advocate for the petitioner [IN CRL.MP.NO.7937/2017 IN CRL.A.365/2017] AND MR.S.DORAISAMY Advocate[IN CRL.MP.7819/2017 IN CRL.A.354/2017]and of MR.K.MATHAN Govt. Advocate (Crl. Side) on behalf of the Respondent [IN BOTH THE PETITIONS]the court made the following order:-

Heard both sides.

2. The petitioners/appellants herein are the accused in C.C.No.3 of 2011 on the file of the learned Special Judge under the Tamil Nadu Protection of Interests of Depositors (in Financial Establishments) Act, 1997 [hereinafter referred to as "TNPID Act"], Coimbatore. They were convicted for the offence under Section 5 of TNPID Act [54 counts] and sentenced to undergo five years Rigorous Imprisonment and

also to pay a fine of Rs.7,000/- for each counts [54 counts] (i.e. Rs.3,78,000/-), in default, to undergo one year Rigorous Imprisonment. Aggrieved by the judgment of the Trial Court, they have preferred the above appeals. Pending appeals, the present petitions have been filed to suspend the sentence.

3. The case of the prosecution is that the petitioners and the other accused are partners of Financial Institution [A-1] and they have collected money from various depositors to the tune of Rs.72,94,163/- and committed default, in repaying the deposit amounts. On the basis of the evidence of depositors, the Trial Court has convicted and sentenced the accused as aforesaid.

4. The learned counsel appearing for the petitioners would submit that several efforts have been taken to settle the dues payable to the depositors and assured that they will settle the dues within a period of 45 days. He would further submit that since the Trial Court has imposed huge amount as fine, they are unable to pay the same and prays time for payment of fine also. It is also submitted that they have no intention to cheat the depositors and that, on account of business loss, they are unable to pay the money and that, therefore it is a fit case for ordering suspension of sentence.

5. The learned Government Advocate [Criminal Side] appearing for the respondent has filed objection. He would submit that the properties worth about Rs.5 crores have been attached invoking the provisions of TNPID Act. He would further submit that the Trial Court on appreciation of entire evidence has come to the conclusion that the petitioners had committed the offence and that, there is no case for suspension of sentence.

6. I have perused the grounds of appeal and the judgment of the Trial Court in C.C.No.3 of 2011 on the file of the learned Special Judge under TNPID Act, Coimbatore dated 19.06.2017.

7. The aim of the TNPID Act is to protect the interest of the depositors. The petitioners have come forward to settle the dues. There is no fear that they will flee from justice. Having regard to the facts and circumstances of the case and bearing in mind the aim of the TNPID Act, I am inclined to suspend the sentence for a limited period and grant bail subject to stringent condition, so as to enable the petitioners and other accused to raise funds and settle the dues.

8. Hence, the sentence imposed on the petitioners by the Trial Court is hereby suspended for a period of 45 days and the petitioners are ordered to be enlarged on bail on each of them executing a bond for Rs.5,000/- [Rupees Five Thousand only] with two sureties each for a likesum to the satisfaction of the learned Special Judge under TNPID Act, Coimbatore, within a period of two weeks from the date of this order and on further condition that the petitioners shall report before the trial Court once in a week on every Monday at 10.30 a.m.

9. The petitioners shall surrender before the Trial Court after 45 days from the date of their release from the prison.

-sd/-

11/07/2017

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
TNPID ACT, COIMBATORE

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE STATE
REP. BY THE DEPUTY SUPERINTENDENT OF POLICE,
EOW II, SALEM DISTRICT.

+1 C.C. to M/S.S.SHANKAR Advocate on payment of necessary
charges SR.NO. 12801

+1 C.C. to M/S.S.DORAISAMY Advocate on payment of necessary
charges SR.NO. 12824

Order

in
CRL MP.7937 & 7819/2017

in
CRL A.365 & 354 /2017

Date :11/07/2017

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RD 11/07/2017