



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Thursday, the Seventh day of December Two Thousand Seventeen

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PRESENT

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL MP(MD) No.10566 of 2017

IN

CRL A(MD) No.463 of 2017

AHAMED MASOOD

... PETITIONER / APPELLANT

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE,
VIGILANCE & ANTI CORRUPTION WING,
VIRUDHUNAGAR DISTRICT ,
CRIME NO.6/2007

... RESPONDENT / RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the operation and execution of sentence imposed by the Learned Special Judge for Prevention of Anti corruption Cases and Chief Judicial Magistrate, Srivilliputhur at Virudhunagar District in Special C.C.No.28/2014 dated 13/11/2017 till the disposal of the appeal and may be pleased to enlarge the above petitioner/appellant on bail till the disposal of the pending appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Ms.D.FARJANA GHOSHIA, Advocate for the petitioner and of Mr.C.MAYILVAHANA RAJENDRAN, Additional Public Prosecutor on behalf of the Respondent, while admitting the CRLA., the court made the following order:-

The accused in Special C.C.No.28 2014, on the file of the learned Special Judge for Prevention of Anti-Corruption Cases and Chief Judicial Magistrate, Srivilliputhur at Virudhunagar District, while challenging his conviction and sentence, seeks appeal bail



under Section 389(1) Cr.P.C.

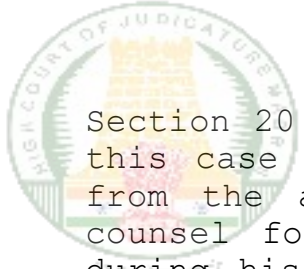
2. After trial, he has been convicted and sentenced as under:

Conviction	Sentence
Section 7 of Prevention of Corruption Act, 1988	3 Years R.I. + Fine of Rs.20,000/-, i/d 6 Months R.I.
Section 13(2) r/w.13(1) (d) of Prevention of Corruption Act, 1988	3 Years R.I. + Fine of Rs.20,000/-, i/d 6 Months R.I.

3. Both the sentences were ordered to run concurrently. It is represented that fine amount has been paid and a receipt has also been filed along with the Appeal Memorandum. The trial Court has pronounced the above Judgment on 13.11.2017. Then the petitioner filed Cr.M.P.No.2226 of 2017 for suspension of sentence before the trial Court enabling the petitioner to file appeal against the Judgment of conviction and sentence. The interim suspension was ordered by the trial Court till 12.12.2017. Hence, the petitioner / accused has filed the present CrI.A.(MD)No.463 of 2017, before this Court and is pending. The petitioner has also filed the present criminal miscellaneous petition, seeking suspension of sentence, during pendency of the appeal.

4. The case of the prosecution is that the petitioner was working as Junior Assistant in Taluk Office at Srivilliputhur for the period from 01.12.2016 to 19.07.2017 and while discharging his duties in A4 Section of the said Taluk Office, the petitioner has demanded a sum of Rs.200/- towards bribe from the complainant for issuing the Legal Heirs Certificate signed by the concerned Tahsildar and he was trapped red handedly for his demand and acceptance for Rs.200/- from the complainant, in the presence of witnesses at the time of handing over the legal heirs certificate of the deceased father of the complainant on the date of occurrence.

5. The learned counsel appearing for the petitioner / appellant states that the petitioner was not given duty to issue the Legal Heir Certificate and the alleged Duty Allotment Register / Ex.P16 was prepared only thereafter for the purpose of this case and P.W.10 / trap laying officer has not chosen to have any witness of the concerned Taluk Office, though the said officials were present at the time of the alleged demand and acceptance of the amount of Rs.200/- from the complainant, on the date of occurrence. He would further contend that there are certain contradictions in the evidence of the prosecution regarding the registration of the complaint as FIR in this case and hence, the presumption under



Section 20 of the Prevention of Corruption Act is not applicable to this case and the alleged bribe amount of Rs.200/- was not seized from the accused, but only from the long size note book. The counsel for the petitioner further submits that P.W.2 has stated during his cross-examination that the accused has handed over the Legal Heir Certificate only after receiving the tainted rupees to the complainant / P.W.2 in long size note book in which the alleged bribe amount of Rs.200/- was kept and also the legal heirs certificate, which is to be handed over to the complainant after receiving the amount given by P.W.2 are not subjected to phenapthalin test by the trap laying officer in this case. Hence the petitioner is having a prima facie case in this appeal.

6. The learned Additional Public Prosecutor appearing for the respondent would submit that the trial Court has rightly convicted the petitioner on appreciating the evidence adduced by the prosecution witnesses and also exhibits. Demand and acceptance of bribe amount on the date of occurrence is proved by the prosecution. Hence, the petitioner is not having any prima facie case in this appeal. However, the learned Additional Public Prosecutor has no serious objection to grant an order of suspension of sentence, considering the imprisonment awarded by the trial Court and also the Court itself suspended the sentence for a particular period.

7. In the facts and circumstances, perusing the impugned Judgment and the materials on record, I am of the view that certain eminently arguable points are involved in the Criminal Appeal. They are required to be examined in detail in the main Criminal Appeal. Further, it will take some time for the disposal of the Criminal Appeal.

8. On considerations, ordered as under:

- (i) Appeal bail granted.
- (ii) Substantial sentence alone is suspended on condition that the petitioner shall execute a bond for Rs.15,000/- (Rupees Fifteen thousand only) with two sureties for the like sum each to the satisfaction of the learned Special Judge for Prevention of Anti-Corruption Cases and Chief Judicial Magistrate, Srivilliputhur at Virudhunagar District.
- (iii) The petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m., until further orders.

sd/-
07/12/2017

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TO

- 1 THE SPECIAL JUDGE FOR
PREVENTION OF ANTI-CORRUPTION CASES AND
CHIEF JUDICIAL MAGISTRATE, SRIVILLIPUTHUR AT
VIRUDHUNAGAR DISTRICT
- 2 THE INSPECTOR OF POLICE,
VIGILANCE & ANTI CORRUPTION WING,
VIRUDHUNAGAR DISTRICT
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

+1. C.C. to Mr.G.MARIAPPAN Advocate SR.No.35879

JAM/08.12.17/CM-VR/ SAR 2/ 4P-5C

ORDER

IN

CRL MP (MD) No.10566 of 2017

IN

CRL A (MD) No.463 of 2017

Date :07/12/2017