



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

Monday, the Twentieth day of March Two Thousand Seventeen

PRESENT

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

CRL MP(MD) No.12278 of 2016
IN
CRL A(MD) No.472 of 2016

V.KALIMUTHU

...APPELLANT/SOLE ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION WING,
SIVAGANGAI, SIVAGANGAI DISTRICT.
(CRIME NO.2/2002)

... RESPONDENT/COMPLAINANT

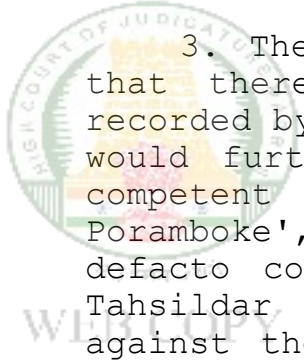
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence and grant bail to the anticipatory/Sole Accused against the judgement dated 1.12.2016 in Special C.C. No.5 of 2014 on the file of the Special Court for cases under the prevention of Corruption Act, Sivagangai District in Crime No.2 of 2002 on the file of the respondent police pending disposal of the instant Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.S.RAJASEKAR, Advocate for the petitioner and of M/S S.KANDASAMY, Government Advocate(crl.side) on behalf of the Respondents the court made the following order:-

The accused in Spl.C.C.No.05 of 2014, on the file of the learned Special Court for Cases under the Prevention of Corruption Act, Sivagangai, 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.	3 Years R.I. + Fine 1000/- i/d. 6 Months R.I.
Section 13(2) r/w. 13(1)(d) of Prevention of Corruption Act,	3 Years R.I. + Fine Rs.1000/- i/d. 6 Months R.I.



3. The learned counsel appearing for the petitioner submitted that there are very many legal infirmities in the conviction recorded by the Trial Court and they are required to be revised. He would further submit that the petitioner / appellant is not a competent person to issue any patta in respect of 'Natham Poramboke', as classified in Revenue Records and he has advised the defacto complainant to seek land assignment before the concerned Tahsildar and due to that vengeance, a false case was foisted against the petitioner / appellant herein. It is further stated that there was a previous motive between the petitioner / appellant and the brother of the defacto complainant in respect of two criminal cases and in those cases, complaints were lodged by the petitioner / appellant and in order to wreck vengeance, the present complaint was lodged by the defacto complainant. He also submitted that the Tahsildar is not seeking any report from the petitioner / appellant herein in respect of granting of patta from the petitioner herein. The trial Court has also suspended the sentence from the date of judgment till 23.12.2013 and thereafter, the present appellant filed the present appeal and got interim order of suspension in this case and the same has been extended to till date. The petitioner is having arguable points in this appeal and he also got a prima face case in this appeal.

4. The learned Government Advocate (Criminal Side) submitted that appreciating the evidence adduced, the Trial Court has rightly convicted and appropriately sentenced the petitioner, however, he has no serious objection at this stage in ordering the suspension of sentence, till the disposal of the appeal, since the suspension of sentence was ordered by the trial Court itself and it is being extended by this Court till date.

5. 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 this 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. Further, the trial Court has suspended the sentence from the date of judgment till 23.12.2013 and thereafter, the present appellant filed the present appeal and got interim order of suspension in this case and the same has been extended to till date.

6. On considerations, ordered as under:

- (i) Appeal bail already granted is made absolute.
- (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 each for the like sum each to the satisfaction of the Special Court for Cases under the Prevention of Corruption Act, Sivagangai 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/-
20/03/2017

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/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1.SPECIAL COURT FOR CASES UNDER
THE PREVENTION OF CORRUPTION ACT,
SIVAGANGAI DISTRICT.
- 2.THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION WING,
SIVAGANGAI, SIVAGANGAI DISTRICT.
- 3.ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.T.LAJAPATHI ROY Advocate SR.No.16103

ORDER
IN
CRL MP(MD) No.12278 of 2016
IN
CRL A(MD) No.472 of 2016
Date :20/03/2017

MS/CM.MSA/SAR lib/21.03.2017/3p.5c