



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

Tuesday, the Nineteenth day of September Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL MP (MD) No.8566 of 2017
IN
CRL A (MD) No.372 of 2017

BALAKRISHNAN

... PETITIONER/APPELLANT/SOLE ACCUSED

Vs

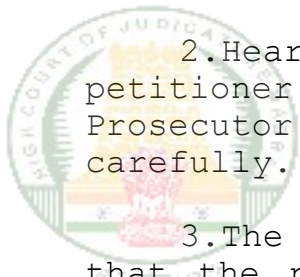
THE STATE REP.BY,
THE INSPECTOR OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
TIRUCHIRAPPALLI,
CRIME NO.23/2008

... RESPONDENT/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 imposed on the petitioner in Spl.C.C.No.18/2014 by the Chief Judicial Magistrate Court/Special Judge, Karur by its Judgement dated 31/08/2017 and enlarge the petitioner on bail pending disposal of the Crl.A.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.B.TAMILNIDHI, Advocate for the petitioner and of MR.C.MAYILVAHANA RAJENDRAN, Additional Public Prosecutor on behalf of the Respondent while admitting Crl A the court made the following order:-

The petitioner is the sole accused in Spl.C.C.No.18 of 2014 on the file of the Chief Judicial Magistrate Court/Special Judge, Karur. He stood charged for the offence under Sections 7, 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988. The trial Court convicted the petitioner/appellant on both the charges and sentenced him to undergo one year Simple imprisonment and imposed a fine of Rs.2,000/-, in default to undergo one month simple imprisonment for an offence under Section 7 of the Prevention of Corruption Act and sentenced him to undergo two year Simple Imprisonment and imposed a fine of Rs.3,000/-, in default to undergo one month simple imprisonment for the offence under Sections 13(2) r/w 13(1)(d) of Prevention of Corruption Act. Challenging above the conviction and sentence, the appellant is before this Court with the Appeal. Pending appeal, he filed the present application, seeking suspension of sentence.



2. Heard Mr.B.Tamilnidhi, learned Counsel appearing for the petitioner and Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor appearing for the respondent and perused the records carefully.

3. The learned counsel appearing for the petitioner would submit that the petitioner was working as Junior Engineer in the Public Works Department and there is a proposal to acquire the land of P.W.2/defacto complainant. The petitioner was directed to measure the property and to submit a report to the Higher Authorities for the purpose of fixing the compensation and in order to get more compensation, the appellant demanded a sum of Rs.10,000/- as bribe from P.W.2. The above demand was made on 08.09.2008. Thereafter, the defacto complainant filed a complaint before the respondent police on 28.09.2008 and trap was arranged on 29.09.2008 and the petitioner was arrested on the same day on the ground that he received bribe, but the evidence of P.Ws.5 & 6 the Assistant Superintendent Engineer and the Executive Engineer of Public Works Department is that on 05.09.2008 itself the petitioner prepared a report and sent it to for approval. In the above circumstances, there is no reason for the appellant to demand the bribe on 08.09.2008 and subsequently received the same on 29.09.2008. Because of previous motive, a false complaint has been given and the petitioner has been arrested.

4. Per contra, the learned Additional Public Prosecutor would submit that it is a trap case and the prosecution has clearly proved the demand and acceptance of bribe and in the Phenolphthalein test, was also proved. In the above circumstances, merely because the appellant sent the report on 05.09.2008, he cannot claim that there is no necessity for demanding bribe and strongly opposed the application.

5. A perusal of the evidence of P.W.5, the Assistant Superintendent Engineer in the Public Works Department, it is seen that on 05.09.2008 itself the petitioner prepared an estimate and sent it to the approval and he signed the same. P.W.6 was the Superintendent Engineer also admitted that he received the report on 05.09.2008 and he also sent the same to the District Revenue Officer on 12.09.2008.

6. I have considered the rival submissions made on either side and perused the records carefully. I find some arguable points involved in the Appeal. Apart from that, there is no possibility for taking up the present Appeal in the near future for final hearing, hence, I am inclined to suspend the sentence of imprisonment alone imposed against the petitioner.

7. In fine, this petition is allowed and the substantive sentence of imprisonment imposed on the petitioner/sole accused alone is suspended and the petitioner shall be released on bail on executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) along with two sureties each for a like sum to the satisfaction of the Chief Judicial Magistrate Court/Special Judge, Karur with a further condition that the petitioner shall report



before the trial Court on the first working day of every English Calender month at 10.30 a.m., till the disposal of the appeal or until further orders.

sd/-
19/09/2017

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/ TRUE COPY /

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

TO

- 1 THE CHIEF JUDICIAL MAGISTRATE/ SPECIAL JUDGE,
KARUR.
 - 2 THE INSPECTOR OF POLICE,
VIGILANCE AND ANTI CORRUPTION, TIRUCHIRAPPALLI.
 - 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. C.C. to M/S.B.TAMILNIDHI Advocate SR.No.30929

ORDER
IN
CRL MP (MD) No.8566 of 2017
IN
CRL A (MD) No.372 of 2017
Date :19/09/2017

MKV-PM-PN-SAR 1/21.09.2017/3P-5C