

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty Fifth day of September Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL MISCELLANEOUS PETITION No.11008 of 2018

IN CRL A.497/2018

N.R.PARTHIBAN

[PETITIONER/SOLE ACCUSED]

vs

THE INSPECTOR OF POLICE,
VIGILANCE AND ANTI-CORRUPTION,
SPECIAL INVESTIGATION CELL,
CHENNAI.
CR.NO. 11/AC/2009/HQ)

[RESPONDENT/COMPLAINANT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.No.497 of 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed against the petitioner by the Special Judge and Chief Judicial Magistrate, Tiruvallur, dated 16.08.2018 in Special Case No. 10 of 2009 and release the petitioner on bail pending disposal of the said Criminal Appeal No. 497 of 2018 on the file of this Honble Court.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.No.497 of 2018 on the file of the High Court and upon hearing the arguments of M/S.V.PAARTHIBAN, Advocate for the petitioner and of MR.K.PRABAKAR Additional Public Prosecutor on behalf of the Respondent the court made the following order:- सत्यमेव जयते

The petition has been filed to suspend the sentence of imprisonment imposed in the judgment dated 16.08.2018 made in Special Case No.10 of 2009 on the file of the learned Special Judge and Chief Judicial Magistrate, Thiruvallur pending disposal of the appeal.

2. The Petitioner/appellant herein is the accused in Special Case No.10 of 2009 on the file of the learned Special Judge / Chief Judicial Magistrate, Thiruvallur. He was found guilty of the offences u/s. 7 of Prevention of Corruption Act 1988 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act and he has been convicted and sentenced as under:

S.No.	Conviction	Sentence
1.	Section 7 of P.C Act 1988.	3-1/2 years R.I and fine of Rs.5,000/- in default to undergo S.I for 3 months.
2.	Section 13(2) r/w 13(1) (d) of P.C Act 1988.	2-1/2 years R.I and fine of Rs.5,000/- in default to undergo S.I for 3 months.

Aggrieved against the same, the petitioner has preferred this appeal and also filed the petition for suspension of sentence.

3. The case of the prosecution is that the appellant/accused was working as Section Writer (Elections) at Ambattur Taluk Office Who was deputed as Temporary Staff under daily wages for three years before the date of occurrence, thereby he is a public servant as defined under Section 2(c) of the Prevention of Corruption Act. The de-facto complainant/PW1 is a clerk to a private Advocate. When the de-facto complainant had approached the appellant/accused on 25.02.2009, with an application for getting voters identity card and family ration card, the appellant/accused had demanded Rs.5,600/- as illegal gratification. In pursuance of the aforesaid demand, by abusing his official position the appellant/accused demanded and accepted a sum of Rs.5,600/- as illegal gratification other than legal remuneration from the complainant and thereby committed an offence punishable u/s 7, 13(2) r/w 13(1)(d) of Prevention of Corruption Act 1988.

4. The learned counsel for the Petitioner/Appellant would submit that PW1 had been examined in chief and thereafter, the appellant/accused filed a petition for recalling PW1 for cross examination and the petition for recall had been allowed. Whereas, PW1 was not produced before the trial court for cross examination. He would further submit that the trial Court erred in convicting the appellant based on the untested testimony of PW1 to speak about the demand. He would further submit that when the prosecution has failed to establish the demand by proper evidence, the conviction is bad in law. He would further submit that there are arguable points available in the appeal and that the petitioner has got a fair chance of succeeding the appeal and contending that it will take time for final hearing of the appeal would pray that the substantive sentence imposed against the petitioner may be suspended. He would also submit that the fine amount has been paid.

5. The learned Additional Public Prosecutor for V & AC cases has raised objections for suspending the sentence.

6. Taking into consideration the submissions made by the learned counsels, the substantive sentence of imprisonment alone is suspended.

7. Hence, the sentence of imprisonment imposed on the petitioner by the trial Court alone is hereby suspended till the disposal of the appeal and the petitioner is ordered to be enlarged on bail on his executing a bond for Rs.50,000/- [Rupees Fifty thousand only] with two sureties each for a like sum to the satisfaction of the learned Special Judge/Chief Judicial Magistrate, Thiruvallur and on further condition that the petitioner shall report before the trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

-sd/-

25/09/2018

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 / CHIEF JUDICIAL MAGISTRATE,
THIRUVALLUR

2 THE ADDITIONAL PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
VIGILANCE AND ANTI-CORRUPTION,
SPECIAL INVESTIGATION CELL,
CHENNAI

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL,
CHENNAI

+1C.C. to M/S.V.PAARTHIBAN Advocate on payment of necessary charges SR.NO. 18063

Order

WEB COPY

in
CRL MP.11008/2018

in
CRL A.497/2018

Date :25/09/2018

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