

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.11179 of 2018

IN CRL A.509/2018

S.VEERABAGU

[PETITIONER/APPELLANT/ ACCUSED]

Vs

STATE OF TAMIL NADU

[RESPONDENT]

REP.BY INSPECTOR OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
CHENNAI CITY-II DETACHMENT,
CHENNAI.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL A.509/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed upon the petitioner pursuant to the order of conviction dated 21.08.2018 passed in Special Case No.3 of 2012 on the file of the Special Judge and Chief Judicial Magistrate, Thiruvallur, convicting the appellant under section 7 of prevention of corruption Act 1998 and sentenced to undergo Rigorous Imprisonment for 4 years and to pay fine of Rs.7,000/- in default simple Imprisonment for 6 months, and also convicting the appellant under section 13(2) r/w 13(1) (d) of prevention of corruption Act 1988 and sentenced to undergo Rigorous Imprisonment for 3 years and to pay fine of Rs.7,000/- in default simple Imprisonment for 3 months, pending disposal of the above CRL A.509/2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL A.509/2018 on the file of the High Court and upon hearing the arguments of MR.S.SUBBIAH, SENIOR COUNSEL FOR MR.P.RAJA, Advocate for the petitioner and of MR.K.PRABAKAR, PUBLIC PROSECUTOR (V & AC) on behalf of the Respondent the court made the following order:-

The petition has been filed to suspend the sentence of imprisonment imposed in the judgment dated 21.08.2018 made in Special Case No.3 of 2012 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 third accused in Special Case No. 3 of 2012 on the file of the learned Special Judge/ Chief Judicial Magistrate, Thiruvallur. He was found guilty of the offences u/s. 7, 13(2) r/w 13(1)(d) of Prevention of Corruption Act 1988 and he has been convicted and sentenced as under:

S.No.	Conviction	Sentence
1.	Section 7 of P.C Act 1988.	4 years R.I and fine of Rs.7,000/- in default to undergo S.I for 6 months.
2.	Section 13(2) r/w 13 (1) (d) of P.C Act 1988.	3 years R.I and fine of Rs.7,000/- 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 the sentence.

3. The case of the prosecution is that the appellant/accused No.3 was working as Junior Assistant in Ambattur Municipality, Chennai from 12.06.2006 to 08.03.2010 is a public servant defined under Section 2(C) of the Prevention of Corruption Act 1988. When the defacto complainant submitted his application for assessment of municipal tax for his newly purchased two flats on 23.02.2010, accused No.1 had demanded an illegal gratification of Rs.5000/- from the de-facto complainant and also told him that if he pay Rs.5000/- as bribe for each flat he would reduce the tax similar amount or lessor. Thereafter, on 05.03.2010, when the complainant met the appellant/accused No.1 to expedite tax assessment and levy the same he demanded to pay half of the bribe amount of Rs.5000/- on 08.03.2010 to consider his request. On 08.03.2010 at 4.40 p.m, the complainant met A1 at his office, A1 reiterated his earlier demand and accepted by instructing A2 to collect the amount outside the office and hand it over to appellant/A3 and thereby abetting A1 in his receiving of illegal gratification other than legal remuneration.

4. The learned senior counsel would submit that even as per the prosecution, the amount is stated to have been handed over by A2, who is a private party. He would submit that there is absolutely no evidence that the petitioner/appellant demanded any money from P.W2. Further, he would submit that the petitioner/appellant being a cashier of Ambattur Municipality had collected bills towards payment of tax and that he has not committed the offence. When there is no proof of demand by him, a mere recovery will not be sufficient to hold the petitioner guilty and convict the petitioner. The learned counsel for the Petitioner/Appellant would submit that there are arguable points available in the appeal and that the petitioner has got a fair chance of succeeding the appeal and would submit that it will take considerable time for final hearing of the appeal and 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 and 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 AND
CHIEF JUDICIAL MAGISTRATE,
THIRUVALLUR.

2 THE NSPECTOR OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
CHENNAI CITY-II DETACHMENT,
CHENNAI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS. (V & AC)

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI, CHENNAI.

+1C.C. to M/S.P.RAJA Advocate on payment of necessary
charges in SR.NO. 18059

Order
in
CRL MP.11179/2018

in
CRL A.509/2018

Date :25/09/2018

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