

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty First day of August Two Thousand Eighteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.10945 of 2018

IN CRL A.493/2018

S.VISWANATHAN

[PETITIONER]

vs

STATE REPRESENTED BY ITS [RESPONDENT]
DEPUTY SUPERINTENDENT OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
ERODE DETACHMENT @ ERODE.
CR. NO. 15/AC/2005/ER.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.493/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed upon the appellant herein by the Learned Chief Judicial Magistrate / Special Judge, Erode, Erode District in Spl C.C.No. 16 of 2015 dated 31.07.2018 and acquit the appellant herein and pass such further or other orders as this Honble Court.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.493/2018 on the file of the High Court and upon hearing the arguments of M/S.R.KARTHIKEYAN Advocate for the petitioner and of MR.K.PRABAKAR ADDL. PUBLIC PROSECUTOR 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 31.07.2018 made in Spl.C.C.No.16 of 2015 on the file of the learned Chief Judicial Magistrate/Special Judge, Erode, pending disposal of the appeal.

2. The petitioner/appellant herein is the accused in Special Case No.16 of 2015 on the file of the Chief Judicial Magistrate/Special Judge, Erode. He was found guilty of the offences u/s. 7 and 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	1 year 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	3 years R.I. and fine of Rs.10,000/- in default to undergo S.I for 6 months.

Aggrieved against the same, the petitioner has preferred this appeal.

3. The case of the prosecution is that the petitioner/appellant was working as Forest Ranger, Sathyamangalam Range, Erode District and he was a public servant within the meaning of Section 2 (c) of the Prevention of Corruption Act, 1988. The further allegation is that on 02.09.2005 at about 14.00 hrs, the petitioner/appellant had demanded Rs.2,000/- from J.Balasubramaniam, for himself as gratification other than legal remuneration, as a motive for doing his official act, viz., sending a favourable verification report with recommendation for issuing a DBBL Gun License of the complainant. Thereafter, pursuant to the above demand, on 12.09.2005, at about 8.50 hrs at his office, the petitioner/appellant accepted the said amount as bribe from the defacto complainant in the presence of the official witness, viz., Mr.M.Mani and thereby, committed offences punishable under Section 7 and 13(2) r/w 13(1) & (d) of Prevention of Corruption Act, 1988.

4. 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 pray that the substantive sentence imposed against the petitioner may be suspended. He would also submit that the fine amount has been paid and that the sentence has been suspended by the Trial Court till 31.08.2018.

5. The learned Additional Public Prosecutor 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.25,000/- [Rupees Twenty five thousand only] with two sureties each for a like sum to the satisfaction of the learned Chief Judicial Magistrate/Special Judge, Erode, Erode District 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/-
21/08/2018

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 CHIEF JUDICIAL MAGISTRATE
SPECIAL JUDGE, ERODE,
ERODE DISTRICT

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 STATE REPRESENTED BY ITS
DEPUTY SUPERINTENDENT OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
ERODE DETACHMENT @ ERODE.

C.C. to M/S.R.KARTHIKEYAN Advocate on payment of necessary charges

Order

in
CRL MP.10945/2018

in
CRL A.493/2018

Date :21/08/2018

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 23/08/2018