

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty Third day of October Two Thousand Eighteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.12371 of 2018

in

CRL.A.No.562 of 2018

N.SEKAR

[PETITIONER/APPELLANT]

Vs

STATE BY

[RESPONDENT/RESPONDENT]

INSPECTOR OF POLICE,
VIGILANCE AND ANTI-CORRUPTION WING,
VELLORE.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.No.562 of 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence of S.I. of 4 years imposed in Special Case NO.10/2014 in the Judgment dated 04.09.2018 by the Court of Special Judge-cum-Chief Judicial Magistrate, Vellore pending CRL.A.No.562 of 2018

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.562 of 2018 on the file of the High Court and upon hearing the arguments of M/S. K.RAJU, Advocate for the petitioner and of 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 04.09.2018 made in Special Case No.10 of 2014 on the file of the learned Special Judge-cum-Chief Judicial Magistrate, Vellore, pending disposal of the appeal.

2. The petitioner herein is the accused in Special Case No.10 of 2014 on the file of the learned Special Judge-cum-Chief Judicial Magistrate, Vellore. He has been found guilty of the offences u/s. 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988. The petitioner has been convicted and sentenced as under:

No.	Conviction	Sentence
1.	U/s. 7 of Prevention of Corruption Act, 1988.	4 years S.I and pay a fine of Rs.2,500/- in default to undergo 2 months S.I.
2.	U/s. 13(2) r/w 13(1) (d) of Prevention of Corruption Act, 1988	4 years S.I and pay a fine of Rs.2,500/- in default to undergo 2 months S.I.

Aggrieved against the same, the petitioner has preferred this appeal along with the petition for suspension of sentence.

3. The case of the prosecution is that the petitioner was working as a Revenue Inspector, Odukathur, Vellore Taluk, and that the P.W.2 had approached the petitioner/appellant for seeking the Government assistance for physically handicapped persons i.e., his brother namely Mr. Shanmugam and that the petitioner for recommending the same had demanded illegal gratification of Rs.2,500/- and later it was reduced to Rs.2,000/-. On 17.02.2012 a trap was laid and that the petitioner was arrested, while he was receiving the illegal gratification of Rs.2,000/-. Charges were framed against the petitioner, further he was convicted and sentenced for the offences under Sections 7 and 13(2) r/w 13(1) (d) of Prevention of Corruption Act, 1988 as stated above.

4. The learned counsel appearing for the petitioner would submit that the trial Court erred in convicting the petitioner, despite P.W.2, the defacto complainant not supporting the prosecution case. He would further submit that there are several infirmities and inconsistencies found in the prosecution case. He would further submit that the petitioner was on bail during trial and that he has not misused the liberty granted to him. Further the petitioner has paid the fine amount on 04.09.2018 and the petitioner is confined in Central Prison, Vellore. He would further submit that the trial Court erred in believing the evidences of the witnesses. Further he would submit that it will take some considerable time for the appeal to be listed for final hearing and pray for suspension of sentence.

5. The learned Additional Public Prosecutor appearing for respondent opposed to grant suspension of sentence stating that the petitioner had demanded illegal gratification for sanctioning government assistance to P.W.3, who is a handicapped person. He would submit that P.W.3 had supported the case of the prosecution and that the trial Court has rightly convicted the petitioner.

6. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsels on either side and that there are arguable points involved in the appeal and that it would take sometime for final hearing of the appeal. I am inclined to suspend the substantive sentence of imprisonment alone.

7. Accordingly, the substantive 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 executing a bond for Rs.15,000/- [Rupees Fifteen Thousand only] each with two sureties each for a like sum to the satisfaction of the learned Special Judge and Chief Judicial Magistrate, Vellore, 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/-
23/10/2018

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, VELLORE

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE

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4 THE INSPECTOR OF POLICE,
VIGILANCE ANTI CORRUPTION WING,
VELLORE

+1C.C. to M/S. K.RAJU Advocate on payment of necessary charges
SR.NO.19731

Order

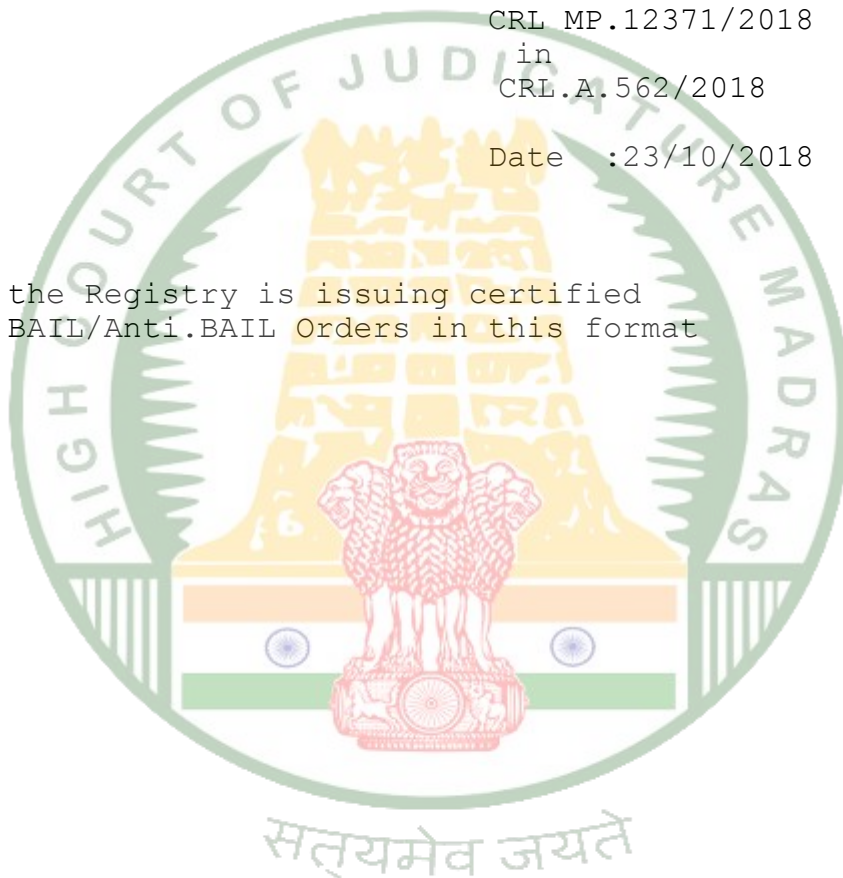
in
CRL MP.12371/2018

in
CRL.A.562/2018

Date :23/10/2018

From 7.2.2001 the Registry is issuing certified
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cm 23/10/2018



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