

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Sixteenth day of August Two Thousand Eighteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.9434 of 2018

IN CRL A.403/2018

SIVAKUMAR

[PETITIONER]

Vs

STATE REP. BY ITS,
INSPECTOR OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
CUDDALORE.
CR.NO. 6 OF 2006.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.403/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed upon the appellant herein by learned Chief Judicial Magistrate/Special Judge, Cuddalore, Cuddalore District in Spl.C.NO.2 of 2008 dated 13.07.2018 and acquit the appellant herein and pass such further or other orders. [CRL.MP.NO.9434/2018]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.403/2018 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 13.07.2018 made in Spl.C.C.No.2 of 2008 on the file of the learned Chief Judicial Magistrate/Special Judge, Cuddalore, pending disposal of the appeal.

2. The petitioner/appellant herein is the accused in Special Case No.2 of 2008 on the file of the Chief Judicial Magistrate/Special Judge, Cuddalore. He was found guilty of the offence 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	5 years S.I and fine of Rs.10,000/- in default to undergo S.I for 1 year
2.	Section 13(2) r/w 13 (1) (d) of P.C Act, 1988	7 years S.I. and fine of Rs.10,000/- in default to undergo S.I for 1 year.

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

3. The case of the prosecution is that the petitioner/appellant was working as Town Planning Inspector, Cuddalore Municipality, Cuddalore District from 06.07.2018 to 29.12.2006 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 29.12.2006 at about 10.00 hrs, the petitioner/appellant had demanded Rs.1,000/- from Tr.T.Kathirvel for himself as gratification other than legal remuneration, as a motive for doing his official act of processing and arranging to get approval to his house site purchased by him. Thereafter, pursuant to the above demand, on 29.12.2006 between 13.30 and 13.45 hrs at his office, the petitioner/appellant reiterated the said demand of gratification other than legal remuneration from him and thereby committed offences punishable under Section 1 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.

5. The learned Additional Public Prosecutor has raised objections for suspending the sentence by filing a counter.

6. Taking into consideration the submissions made by the learned counsels and also considering that there are arguable points available in the appeal, I am inclined to suspend the substantive sentence of imprisonment alone subject to the following conditions that:-

(i) the petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees one lakh only) with two sureties each for a like sum to the satisfaction of the learned Chief Judicial Magistrate/Special Judge, Cuddalore District.

(ii) the petitioner shall appear before the above said Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

-sd/-
16/08/2018

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, CUDDALORE DISTRICT

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE

4 THE INSPECTOR OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
CUDDALORE.

+1 C.C. to M/S.R.KARTHIKEYAN Advocate on payment of necessary charges SR.NO. 15372

सत्यमेव जयते
Order

in
CRL MP.9434/2018

in
CRL A.403/2018

Date :16/08/2018

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RD 16/08/2018