

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Twenty Second day of October Two Thousand Eighteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.13557 of 2018

IN CRL.A.NO.617 of 2018

SIVAKUMAR

[APPELLANT/ACCUSED]

Vs

STATE REP BY

[RESPONDENT/COMPLAINANT]

THE INSPECTOR OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
CHENNAI CITY-III,
CHENNAI.
CR.NO.7/AC/2008.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased To suspend the sentence dated 3rd October 2018 passed by the Learned Special Judge/ and Chief Judicial Magistrate, Chengalpattu in Spl.Case No. 4 of 2010, and the petitioner enlarged on bail till the disposal of the Crl.A.No.617 of 2018.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.V.N.KRISHNAMURTHY, Advocate for the petitioner, and of MR. K.PRABAKAR, Additional Public Prosecutor (V AND 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 03.10.2018 made in Spl.C.C.No.4 of 2010 on the file of the learned Special Judge and Chief Judicial Magistrate, Chengalpattu, pending disposal of the appeal.

2. The petitioner herein is the accused in Spl.C.C.No.4 of 2010, on the file of the learned Special Judge and Chief Judicial Magistrate, Chengalpattu,. 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:

S.No.	Conviction	Sentence
1.	U/s. 7 of Prevention of Corruption Act, 1988.	3 years S.I and pay a fine of Rs.5,000/- in default to undergo 5 months S.I.
2.	U/s. 13(2) r/w 13(1) (d) of Prevention of Corruption Act, 1988	3 years S.I and pay a fine of Rs.5,000/- in default to undergo 5 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, who worked as Assistant Grade Revenue Inspector, Chennai Airport Extension Project, Sriperumpudur, Kanchipuram District, had demanded illegal gratification for issuance of compensation cheque to the defacto complainant. In the result, the petitioner was convicted and sentenced under Sections 7 and 13(2) r/w 13(1) (d) of Prevention of Corruption Act, 1988.

4. The learned counsel appearing for the petitioner would 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 and that the trial Court has suspended the sentence upto 30.10.2018. 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 to 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, Chengalpattu, 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/-
22/10/2018

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,
CHENGALPATTU.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
CHENNAI CITY-III,
CHENNAI.

+1 C.C. to M/S.V.N.KRISHNAMURTHY Advocate on payment of
necessary charges SR.NO. 19726

Order

in
CRL MP.13557/2018

in
CRL.A.NO.617/2018

Date :22/10/2018

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TA-23/10/2018