

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Fourth day of October Two Thousand Eighteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.14015 of 2018

& CRL.A.NO.639 OF 2018

BALASUBRAMANIAN

[APPELLANT / ACCUSED]

Vs

STATE REP. BY ITS

[RESPONDENT]

INSPECTOR OF POLICE,

VIGILANCE AND ANTI CORRUPTION, CC-II,

(CR.NO.13/AC/2003)

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.639 OF 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, Chengalpattu in Spl.C.C.No.4 of 2007 dated 04.10.2018, IN CRL.A.NO.639 OF 2018 [IN CRL.MP.NO.14015 OF 2018]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.639 OF 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, ADDITIONAL 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 04.10.2018 made in Special C.C.No.4 of 2007 on the file of the learned Chief Judicial Magistrate/Special Judge, Chengalpattu, pending disposal of the appeal.

2. The petitioner herein is the 2nd accused in Special C.C.No.4 of 2007 on the file of the learned Chief Judicial Magistrate/Special Judge, 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 6 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 6 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 on 10.09.2003 at 04.00 pm, a surprise joint raid was conducted by the Officers of the District Inspection Committee along with DVAC party of Chennai City - 2, at the Meenambakkam RTO Office, and it was found that the petitioner/appellant/A2, who was working as a Junior Assistant and looking after B5 seat had gone on medical leave and had illegally appointed A3, a private person to look after his work and permitted him to receive excess amounts for new licenses and renewal of licenses and thereby the petitioner/appellant was charged and tried for offences under Sections 7 and 13(2) r/w 13(1) (d) of Prevention of Corruption Act, 1988, and further convicted for the above stated offences.

4. The learned counsel appearing for the petitioner would submit that the allegations against the petitioner/A2 is that he has employed A3, a private person to illegally do the work on behalf of him in the RTO Office and allowed him to collect excess amounts. He would submit that the fact remains that on the day of raid the petitioner/A2 was on medical leave. He would further submit that it is the categoric evidence of P.W.13, Investigation Officer, that the petitioner/A2 was on medical leave during the day of alleged raid. He would also submit that other witnesses have not spoken about the presence of the petitioner in the office during the raid. He would further submit that there are several infirmities and inconsistencies found in the prosecution case. Further the petitioner has paid the fine amount on 04.10.2018 and the sentence of the petitioner is suspended till 03.11.2018. He would further submit that the trial Court erred in believing the uncorroborated 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 would pray for suspension of sentence.

5. The learned Additional Public Prosecutor appearing for the respondent opposed to grant suspension of sentence.

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.50,000/- [Rupees Fifty Thousand only] each with two sureties each for a like sum to the satisfaction of the learned Chief Judicial Magistrate/Special Judge, 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/-
24/10/2018

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 CHIEF JUDICIAL MAGISTRATE/
SPECIAL JUDGE, CHENGALPATTU.

2 THE PUBLIC PROSECUTOR
VIGILANCE AND ANTI CORRUPTION,
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
VIGILANCE AND ANTI CORRUPTION, CC-II,

+1C.C. to M/S.R.KARTHIKEYAN Advocate on payment of necessary charges SR NO.19851

Order

in
CRL MP.14015 OF 2018
& CRL.A.NO.639 OF 2018

Date :24/10/2018

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MK:25/10/2018



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