

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Twenty Ninth day of October Two Thousand Eighteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.14305 of 2018

IN CRL.A.NO.660 OF 2018

C.C.NO.8 OF 2012

[IN THE COURT OF XI ADDL.SPECIAL JUDGE FOR CBI CASES AND RELATING TO
BANKS AND FINANCIAL INSTITUTIONS AT CHENNAI]

B.ARIVUKILI
PARTNER SRI SIVAMALAI MOTORS

[PETITIONER]

Vs

IOP SPE/CBI /ACB CH
THE INSPECTOR OF POLICE,
SPE/CBI/ACB/CHENNAI.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.660 of 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence of imprisonment passed by the trial court, namely the Court of XI Addl special Judge for CBI CASES, and relating to Banks and Financial Institutions Act Chennai in C.C.No.8 of 2012 dated 23.10.2018 and the release of the Petitioner/appellant. [CRL.MP.NOS.14305/2018]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.660 of 2018 on the file of the High Court and upon hearing the arguments of M/S.S.SIVANANDH AND ASSOCIATES Advocate for the petitioner and of MR.K.SRINIVASAN SPECIAL PUBLIC PROSECUTOR FOR CBI CASES 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 23.10.2018 made in Spl.C.C.No.8 of 2012 on the file of the learned XI Additional Special Judge for CBI Cases and relating to Banks and Financial Institutions at Chennai pending disposal of the criminal appeal.

2. The petitioner herein is the fourth accused in Spl.C.C.No.8 of 2012 on the file of the learned XI Additional Special Judge for CBI Cases and relating to Banks and Financial Institutions at

Chennai. He was found guilty of the offences u/s. 120-B r/w 409 IPC, 420 IPC and Sec.13(2) r/w 13(1)(d) of Prevention of Corruption Act 1988 and she has been convicted and sentenced as under:

S.No.	Conviction	Sentence
1.	Section 120-B r/w 409 IPC, and Sec.13(2) r/w 13(1)(d) of P.C Act 1988.	2 years R.I and fine of Rs.5,000/- in default to undergo S.I for 6 months.
2.	Section 420 IPC	2 years R.I and fine of Rs.5,000/- in default to undergo S.I for 6 months.

Aggrieved over the same, the petitioner has preferred this appeal and also filed the petition for suspension of sentence.

3. The case of the prosecution is that the petitioner/A1 was working as the Branch Manager, Union Bank of India, Thiruvannamalai Branch, from February to December 2008. A2 succeeded A1 and was working as the Branch Manager of the said Bank, A3 was the dealer in supplying power drillers and its spare parts. During the year 2008, A5 and A6 applied loan for purchase of tractor/power drillers/agricultural loan with A1 and A2. A1 and A2 by abusing their official powers and knowingly based on forged documents namely forged invoices, land revenue documents, Adangal, land valuation certificate, encumbrance certificate, Extracts of FMB sketches from A3 in respect of the loans availed by A5 and A6 had and without obtaining any security had granted such loans causing loss to the bank to the tune of Rs.4,77,461/- The petitioner/A4 along with other accused was tried for offences u/s 120-B r/w 409 IPC, 420 and Sec.13 (2) r/w 13(1)(d) of Prevention of Corruption Act 1988 and convicted as stated above.

4. The learned counsel for the petitioner/A-4 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 23.11.2018.

5. The learned Special Public Prosecutor for CBI 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/A-4 by the trial Court alone is hereby suspended till the disposal of the appeal and the petitioner/A-4 is ordered to be enlarged on bail on his executing a bond for Rs.50,000/- [Rupees Fifty thousand only] with two sureties each for a like sum to the

satisfaction of the learned XI Additional Special Judge for CBI Cases and relating to Banks and Financial Institutions at Chennai and on further condition that the petitioner/A-4 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/-

29/10/2018

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 XI ADDITIONAL SPECIAL JUDGE
FOR CBI CASES AND RELATING TO BANKS
AND FINANCIAL INSTITUTIONS AT CHENNAI

2 THE SPECIAL PUBLIC PROSECUTOR FOR CBI CASES
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT
CENTRAL PRISION, PUZHAL, CHENNAI

4 IOP SPE/CBI /ACB CH
THE INSPECTOR OF POLICE,
SPE/CBI/ACB/CHENNAI.

+1 C.C. to M/S.S.SIVANANDH AND ASSOCIATES Advocate on payment
of necessary charges SR.NO. 20415

Order

in
CRL MP.14305/2018

IN CRL.A.NO.660 OF 2018

Date :29/10/2018

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RD 31/10/2018