

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the First day of November Two Thousand Eighteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.14588 of 2018

CRL.A.678 OF 2018

K.VADIVEL

[PETITIONER / APPELLANT / ACCUSED]

Vs

THE STATE REPRESENTED BY
INSPECTOR OF POLICE,
V AND AC, CC-II, CHENNAI.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.678 OF 2018 on the file of the High Court, the High Court will be pleased 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, Chengalpattu, pending disposal of the CRL.A.678 OF 2018 [IN CRL.MP.NO.14588 OF 2018]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.678 OF 2018 on the file of the High Court and upon hearing the arguments of M/S.R.BALACHANDERAN, 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 04.10.2018 made in Special C.C.No.4 of 2007 on the file of the learned Special cum Chief Judicial Magistrate, Chengalpattu, pending disposal of the appeal.

2. The petitioner herein is the 3rd accused in Special C.C.No.4 of 2007 on the file of the learned Special cum Chief Judicial Magistrate, Chengalpattu. He has been found guilty of the offences u/s. 419 of IPC and u/s. 8 of Prevention of Corruption Act, 1988. The petitioner has been convicted and sentenced as under:

S.No.	Conviction	Sentence
1.	U/s. 419 of IPC	2 years S.I

S.No.	Conviction	Sentence
2.	U/s. 8 of Prevention of Corruption Act, 1988.	2 years S.I and pay a fine of Rs.3,000/- 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 2nd accused before the trial Court, who was working as a Junior Assistant and looking after B5 seat had gone on medical leave and had illegally appointed the petitioner/3rd accused, 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 Section 419 of IPC and under Section 8 of Prevention of Corruption Act, 1988 and further convicted for the above stated offences.

4. Mr.R.Balachanderan, learned counsel appearing for the petitioner would 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 trial Court has initially suspended the sentence till 30.10.2018 and had extended it till 13.11.2018. Further the sentence of the co-accused has already been suspended by this Hon'ble Court in CrI.MP.No.14015 of 2018 in CrI.A.No.639 of 2018 dated 24.10.2018. 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.25,000/- [Rupees Twenty Five Thousand only] with two sureties each for a like sum to the satisfaction of the learned Special cum 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/-

01/11/2018

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 CUM CHIEF
JUDICIAL MAGISTRATE, CHENGALPATTU.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU

3 THE PUBLIC PROSECUTOR
[V & AC] HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
V AND AC, CC-II, CHENNAI.

C.C. to M/S.R.BALACHANDERAN Advocate on payment of necessary charges

WEB COPY

Order

in

CRL MP.14588 OF 2018

in

CRL.A.NO.678 OF 2018

Date :01/11/2018

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