

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Criminal Jurisdiction )

Monday, the Twenty Second day of April Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.3928 of 2019

IN CRL.A.NO.145 OF 2019

1 K.DHAYALAN  
2 V.J.ANNADURAI  
3 M.ARUMUGAM

[ PETITIONERS ]

Vs

THE STATE REP BY ITS  
THE INSPECTOR OF POLICE,  
VIGILANCE AND ANTI CORRUPTION,  
VILLUPURMA DISTRICT  
CR.NO.5 OF 2004.

[ RESPONDENT ]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.145/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed against the petitioners in the order passed in Special Case No.2 of 2013 by the Honble Special Court for Prevention of Corruption Act Cases, Villupuram dated 13.03.2019 and enlarge this petitioners on bail pending disposal

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.145/2019 on the file of the High Court and upon hearing the arguments of M/S.V.ARUNAGIRI, Advocate for the petitioner FOR [A1 &A2] and of M/S. MR.M.MADHUPRAKASH Advocate for the petitioner FOR [A3]and of MR.K.PRABAKARA ADDL PUBLIC PROSCUTOR [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 13.03.2019 made in Special Case No.2 of 2013 on the file of the Special Court for Prevention of Corruption Act Cases, Villupuram, pending disposal of the appeal.

2. The petitioners herein are the 1<sup>st</sup>, 3<sup>rd</sup> and 4<sup>th</sup> accused in Special Case No.2 of 2013 on the file of the Special Court for Prevention of Corruption Act Cases, Villupuram. 1<sup>st</sup> and 3<sup>rd</sup> accused have been found guilty of the offences u/s. 7 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988 and 4<sup>th</sup> accused has been found guilty of the offence u/s.12 of the Prevention of Corruption Act, 1988. The petitioners have been convicted and sentenced as under:

1<sup>st</sup> and 3<sup>rd</sup> accused/1<sup>st</sup> and 2<sup>nd</sup> petitioner:

| S.No. | Conviction                                                         | Sentence                                                                     |
|-------|--------------------------------------------------------------------|------------------------------------------------------------------------------|
| 1.    | U/s. 7 of the Prevention of Corruption Act, 1988.                  | 4 years R.I and pay a fine of Rs.1,000/- in default to undergo 3 months S.I. |
| 2.    | U/s. 13(2) r/w 13(1) (d) of the Prevention of Corruption Act, 1988 | 5 years R.I and pay a fine of Rs.5,000/- in default to undergo 6 months S.I. |

4<sup>th</sup> accused/3<sup>rd</sup> petitioner:

| S.No. | Conviction                                        | Sentence                                                                    |
|-------|---------------------------------------------------|-----------------------------------------------------------------------------|
| 1.    | U/s.12 of the Prevention of Corruption Act, 1988. | 4 years R.I and pay a fine of Rs.1,000/- in default to undergo 1 month S.I. |

Aggrieved against the same, the petitioners have preferred this appeal along with the petition for suspension of sentence.

3. The case of the prosecution is that the 1<sup>st</sup> and 2<sup>nd</sup> petitioners were formerly working as Assistant Treasury Officer and Junior Assistant at the Sub-Treasury, Tindivanam and 3<sup>rd</sup> petitioner was working as Office Assistant at the Office of the Assistant Executive Engineer (Agricultural Engineering), Tindivanam. The P.W.3-defacto complainant, one Sumathi is a Superintendent of a project conducted by the Tamil Nadu Government. She used to submit the bills of the government in the treasury and would encash it, likewise she submitted 2 bills on 20.02.2004. For passing the bills, petitioners herein are demanded Rs.2,000/-, Rs.1,500/- and Rs.500/- respectively as illegal gratification other than legal remuneration. Further, the 1<sup>st</sup> accused/1<sup>st</sup> petitioner instructed the defacto complainant to pay the bribe amount through 4<sup>th</sup> accused/3<sup>rd</sup> petitioner and that she gave a complaint. Based on which a trap was laid on 24.02.2004 and the accused/petitioners were caught red handed while receiving the amount and after completion of investigation, the respondent police filed final report and thereby they were tried for the offences, convicted and sentenced as stated above. During the course of trial, 2<sup>nd</sup> accused died on 29.10.2018, hence charges against him got abated.

4. The learned counsel appearing for the petitioners would further submit that there are several infirmities and inconsistencies found in the prosecution case. He would submit that the P.W.3-Defacto complainant had not supported the case of the prosecution and her evidence in respect of demand and acceptance is self contradictory in nature and thereby would submit that the trial Court erred in believing the self contradictory evidence of the witness and

convicted the petitioners. He would also submit that the petitioners were on bail, and that they have not misused the liberty granted to them during the trial. He would further submit that the petitioners appeared before the trial Court on the date of Judgment and they have been sent to Central Prison, Cuddalore, after conviction on 13.03.2019 and that they have paid the fine amount on the same day of Judgment. He would submit that the 1<sup>st</sup> and 2<sup>nd</sup> petitioners are senior citizens and that there are several arguable points in the case and 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 and also the period of incarceration suffered by the petitioners, I am inclined to suspend the substantive sentence of imprisonment alone.

7. Accordingly, the substantive sentence of imprisonment imposed on the petitioners by the trial Court alone is hereby suspended till the disposal of the appeal and the petitioners are 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 Special Court for Prevention of Corruption Act Cases, Villupuram, and on further condition that the petitioners 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/-  
22/04/2019

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 COURT FOR  
PREVENTION OF CORRUPTION ACT CASES,  
VILLUPURAM

2 THE CHIEF JUDICIAL MAGISTRATE  
VILLUPURAM[FOR INFORMATION]

3 THE SUPERINTENDENT,  
CENTRAL PRISON, CUDDALORE

4 THE INSPECTOR OF POLICE,  
VIGILANCE AND ANTI CORRUPTION,  
VILLUPURMA DISTRICT

5 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

+3 C.C. to M/S.V.ARUNAGIRI Advocate on payment of necessary  
charges SR.NO. 8034

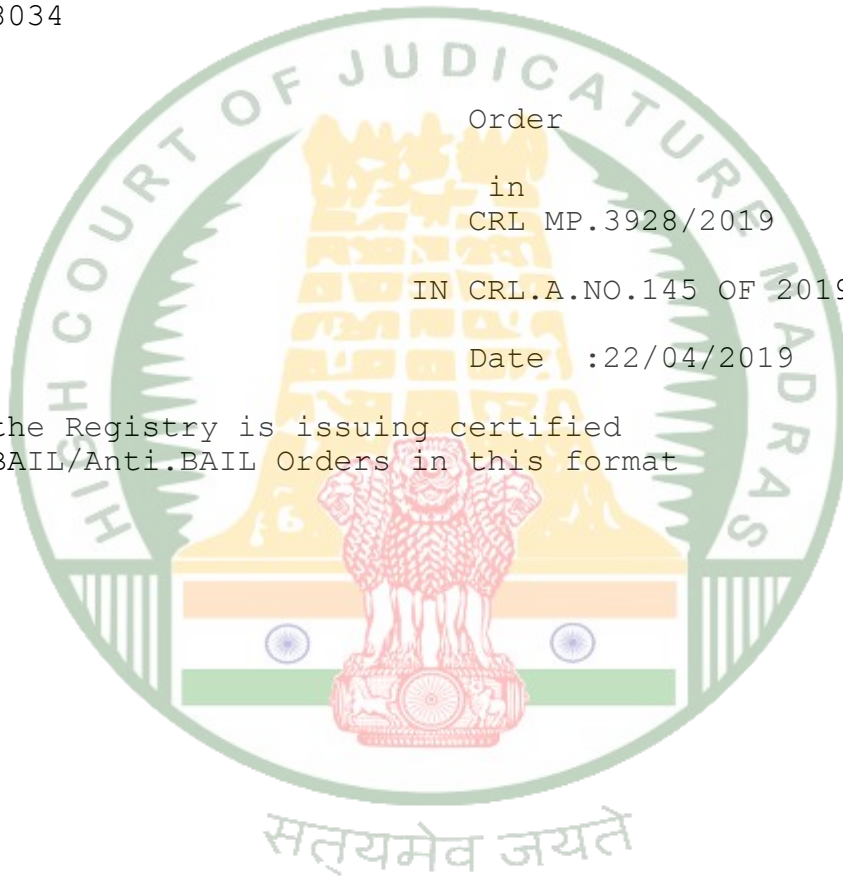
Order

in  
CRL MP.3928/2019

IN CRL.A.NO.145 OF 2019

Date :22/04/2019

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RD 22/04/2019



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