

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the First day of April Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.4609 of 2019

in CRL.A.NO.172 OF 2019

KABILAN

[PETITIONER]

Vs

THE DEPUTY SUPERINTENDENT OF POLICE [RESPONDENT]
VIGILANCE AND ANTI CORRUPTION,
CHENNAI CITY I DETACHMENT.
CR.NO.27/AC/2009

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.172/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed in Special Case No.18 of 2010 on the file of the Honourable Chief Judicial Magistrate Cum Special Judge at Chengalpattu, pending disposal of the above Criminal Appeal Petition

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.172/2019 on the file of the High Court and upon hearing the arguments of M/S.V.PURUSHOTHAMAN 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 20.03.2019 made in Special Case No.18 of 2010 on the file of the learned Chief Judicial Magistrate Cum Special Judge, Chengalpattu, pending disposal of the appeal.

2. The petitioner herein is the sole accused in Special Case No.18 of 2010 on the file of the learned Chief Judicial Magistrate Cum Special Judge, Chengalpattu. He has been found guilty of the offences u/s. 7 and 13(1)(d) r/w 13(2) 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(1) (d) r/w 13 (2) 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 the petitioner/accused had demanded an amount of Rs.50,000/-, towards illegal gratification other than legal remuneration, for issuance of individual patta and agreed to accept the initial amount of Rs.10,000/- on 08.12.2009 and the balance amount of Rs.40,000/- on 11.12.2009. The P.W.2-Defacto complainant was not prepared to pay the illegal gratification and had given a complaint based on which a trap was laid pursuant to the same, the appellant was caught red handed while receiving the amount and arrested on the same day. After completion of investigation, petitioner/accused was charged and tried for the offences under Sections 7 and 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988, and further convicted for the above stated offences.

4. The learned counsel for the petitioner/accused would submit that while the petitioner was on bail during the trial he has not misused the liberty granted to him during the trial. He would further submit that there are several infirmities and inconsistencies found in the prosecution case. Further the petitioner/accused has paid the fine amount on 20.03.2019 and the sentence of the petitioner/accused is suspended till 16.04.2019. 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 Cum 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/-

01/04/2019

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 CHIEF JUDICIAL MAGISTRATE
CUM SPECIAL JUDGE, CHENGALPATTU

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE DEPUTY SUPERINTENDENT OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
CHENNAI CITY I DETACHMENT.

+1 C.C. to M/S.V.PURUSHOTHAMAN Advocate on payment of necessary charges SR.NO. 6624

Order

in
CRL MP.4609/2019

in CRL.A.NO.172 OF 2019

Date :01/04/2019

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RD 04/04/2019