

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Tenth day of April Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.5091 of 2019

IN CRL.A.NO.207 OF 2019

1 R.ARIVUDAINAMBI [PETITIONERS]

2 A.SATHIYAVANI

Vs

THE STATE REP BY ITS, [RESPONDENT]

THE INSPECTOR OF POLICE,
SPE CBI ACB CHENNAI.

[IN R.C.52 (A) 04 OF CBI/ACB/CHENNAI]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.207/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence and conviction imposed on the petitioners appellants herein passed by the Learned Court of IX Additional Special Judge Special Judge for CBI CASES, Chennai -104 by Judgment dated 18.03.2019 made in C.C.No.11 of 2007 and enlarge the petitioners on bail pending disposal of the above criminal Appeal.[CRL.MP.NO.5091/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.207/2019 on the file of the High Court and upon hearing the arguments of M/S.K.SHANKER, 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 and conviction imposed in the judgment dated 18.03.2019 made in C.C. No.11 of 2007 on the file of the learned IX Additional Special Judge for CBI Cases, Chennai-104, pending disposal of the appeal.

2. The petitioners herein are the accused in C.C. No.11 of 2007 on the file of the learned IX Additional Special Judge for CBI Cases, Chennai-104. The 1st petitioner/1st accused has been found guilty of the offences u/s. 120B IPC r/w 13(2) r/w 13(1) (e) of the Prevention of Corruption Act, 1988 and substantive offence of u/s.13(2) r/w 13(1)(e) of the Prevention of Corruption Act, 1988. The 2nd petitioner/2nd accused has been found guilty of the offences u/s. 120B

IPC r/w 13(2) r/w 13(1) (e) of the Prevention of Corruption Act, 1988. The petitioners have been convicted and sentenced as under:

1st petitioner/1st accused:

S.No.	Conviction	Sentence
1.	U/s. 120B IPC r/w 13(2) r/w 13(1) (e) of the PC Act	2 years R.I and pay a fine of Rs.1,00,000/- in default to undergo 1 year S.I.
2.	U/s.13(2) r/w 13(1)(e) of the P.C. Act	2 years R.I and pay a fine of Rs.1,00,000/- in default to undergo 1 year S.I.

2nd petitioner/2nd accused:

S.No.	Conviction	Sentence
1.	U/s. 120B IPC r/w 13(2) r/w 13(1) (e) of the PC Act	2 years S.I and pay a fine of Rs.1,00,000/- in default to undergo 1 year 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 petitioners, during the check period between 01.01.1994 to 05.08.2004 have amassed properties disproportionate to their known sources of income, while working as a Government Servants. Both the appellants have conspired with each other and had amassed illegal wealth to the tune of Rs.20,79,095/-, which is 34% over and above the Dearness Allowance and thereby the complainant/CBI/ACB/Chennai conducted the investigation and filed the final report. Based on which the trial was conducted and the trial Court found the petitioners guilty and convicted them for the offences as stated above.

4. The learned counsel for the petitioners would submit that the petitioners were on bail during the trial they have not misused the liberty granted to them during the trial. He would also submit that the petitioners are senior citizens. He would further submit that the petitioners have paid the fine amount on 18.03.2019 and the sentence of the petitioners are suspended till 22.04.2019. He would also submit that there are arguable points available in the appeal and that the petitioners have got a fair chance of succeeding the appeal and would submit that it may take some time for the records to be made ready and the appeal being listed for final hearing and would pray for suspension of sentence.

5. The learned Special Public Prosecutor for CBI Cases appearing for the respondent raised his objection, stating that though the sentence of imprisonment has been suspended by the trial Court, the petitioners have filed the petition seeking for suspension of sentence and also conviction, which cannot be entertained

6. At this juncture, the learned counsel for the petitioners would submit that the petitioners are restricting their prayer only with regard to the suspension of substantive sentence of imprisonment alone.

7. 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.

8. 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 learned IX Additional Special Judge for CBI Cases, Chennai-104, 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/-

10/04/2019

This order, on being produced, be punctually observed and carried into execution by all concerned

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सतयमेव जयते
Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

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TO

1 THE IX ADDITIONAL SPECIAL
JUDGE FOR CBI CASES, CHENNAI-104.

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

3 THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
SPE CBI ACB CHENNAI.

+1 C.C. to M/S.K.SHANKER Advocate on payment of necessary charges SR.NO. 7448

Order

in
CRL MP.5091/2019

IN CRL.A.NO.207 OF 2019

Date :10/04/2019

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RD 10/04/2019



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