

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Fifteenth day of April Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.5262 of 2019

IN CRL A.215/2019

B.CANNIAPPIN

[PETITIONER / APPELLANT / ACCUSED]

Vs

STATE REPRESENTED BY
INSPECTOR OF POLICE,
CBI, ACB, CHENNAI.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL A.215/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner/appellant in Special CC No.1/2015 by Judgment dated 28.03.2019 rendered by the Special Judge At Karaikal and enlarge the petitioner on bail pending Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL A.215/2019 on the file of the High Court and upon hearing the arguments of M/S.V.RAJAMOHAN, 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:-

This petition has been filed to suspend the execution of the sentence and conviction dated 28.03.2019 made in S.C.C.No.1 of 2015 against the petitioner/A-1 on the file of the learned Special Judge, Karaikal pending disposal of the appeal.

2. The petitioner herein is the 1st accused in Special Calendar Case No.1 of 2015 on the file of the learned Special Judge, Karaikal. Though he was charged for the offence u/s.120B r/w 420, 420,468, 471 r/w 120 B IPC and Sec.13 (1) (d) r/w 13 (2) of Prevention of Corruption Act, 1988, he was found guilty only for the offence u/s.468 of IPC and he was not found guilty for the other offences and he has been convicted and sentenced as under:

S.No.	Conviction	Sentence
1.	Section 468 IPC	3 years R.I and fine of Rs.1,000/- in default to undergo S.I for 6 months

Aggrieved against the same, the petitioner has preferred this appeal.

3. The case of the prosecution is that the Inspector of Police, CBI ACB, Chennai has laid the charge sheet against four accused persons/A1 to A4, stating that on an information, a case was registered in Rc.No.MA1-2008-A-0065, on 21.12.2008, against the petitioner/A1, B.Canniappin, son of Balasubramanian, Section Officer, Pondicherry University, Puducherry, G.Harridassane, Section Officer (Engineering Wing), Pondicherry University, Puducherry, late V.Djairamene, Computer Data Entry Operator, Examination Wing, Pondicherry University, Puducherry, S.Manikandan, employee of Rajiv Gandhi Engineering College, Puducherry and unknown others for commission of offences punishable u/s. 120B r/w 420, 468, 471 IPC and Sec. 123(2) r/w 13(1) (d) of PC Act 1988.

4. It is alleged that during the year 2007, malpractice was noticed in the examination of Engineering and Medical Stream conducted by Pondicherry University and marks were deliberately inflated to extend undue favour to the students, leading to declaration of pass in respect of those candidates who have otherwise not scored sufficient marks to be declared as pass. P.Sellamuthu, a Private individual, K.Kiruba Sridhar, a student of Aarubadai Veedu Medical College, Puducherry and Dr.Krishnamoorthy, Son of P.M.Chinnappan, father of K.Kiruba Sridhar, were arrayed as A2 to A4. That after the examination on "Ophthalmology" was over, A1 to A4 entered into a criminal conspiracy in Puducherry during the year 2007-2008 and agreed to cheat the Pondicherry University in the matter of inflating marks of Kiruba Sridhar, who wrote examination during November 2007 on the subject Ophthalmology. The petitioner/A1 was the custodian of the answer scripts. A1 in furtherance of the criminal conspiracy, by abusing his official position as Section Officer dishonestly and fraudulently provided new answer sheers to Kiruba Sridhar who was brought to his office by Sellamuthu and altered the marks by knowing fully well that the marks altered by him are not in commensurate with the answers written by Kiruba Sridhar in the originally written answer scripts and induced the Pondicherry University to declare that Kiruba Sridhar had passed in the above subject. The petitioner/A1 abused his official position as Section Officer, Pondicherry University, Puducherry and received a cash of Rs.50,000/- from Dr.Krishnamoorthy through P.Sellamuthu as pecuniary advantage for the illegal act committed by him and hence, A1 to A4 have committed the offences punishable u/s.120B r/w 420, 468, 468 r/w 471 IPC and Sec.13(2) r/w 1(1) (d) of the Prevention of Corruption Act, 1988.

5. The learned counsel for the petitioner/A-1 would submit that after registration of the case the petitioner/A-1 was arrested and remanded to judicial custody and later released on bail on furnishing sureties. Thereafter, the trial was conducted and that the petitioner has been convicted as stated above. He would further submit that on a petition being filed, the trial Court had suspended the sentence till 29.04.2019 on condition that he has also paid the fine amount.

6. The learned counsel for the petitioner/A-1 would submit that while the petitioner/A-1 was on bail during the trial he has not misused the liberty granted to him during the trial. He would also 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 it may take some time for the records to be made ready and the appeal being listed for final hearing. Therefore, he prays for grant of suspension of sentence to the petitioner/A-1.

7. The learned Special Public Prosecutor for CBI Cases has raised objections stating that the prayer had been made for suspension of sentence and conviction and prayer for suspension of conviction cannot be entertained.

8. Taking into consideration, the submissions made by the learned counsels and also considering that there are arguable points available in the appeal, I am inclined to suspend the substantive sentence of imprisonment alone subject to the following conditions that:-

(i) the petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty thousand only) with two sureties each for a like sum to the satisfaction of the learned Special Judge, Karaikal.

(ii) the petitioner shall appear before the above said Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

-sd/-
15/04/2019

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 JUDGE,
KARAIKAL.

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

3 THE INSPECTOR OF POLICE,
CBI, ACB, CHENNAI.

+1C.C. to M/S.V.RAJAMOHAN Advocate on payment of necessary
charges SR NO.7724

Order

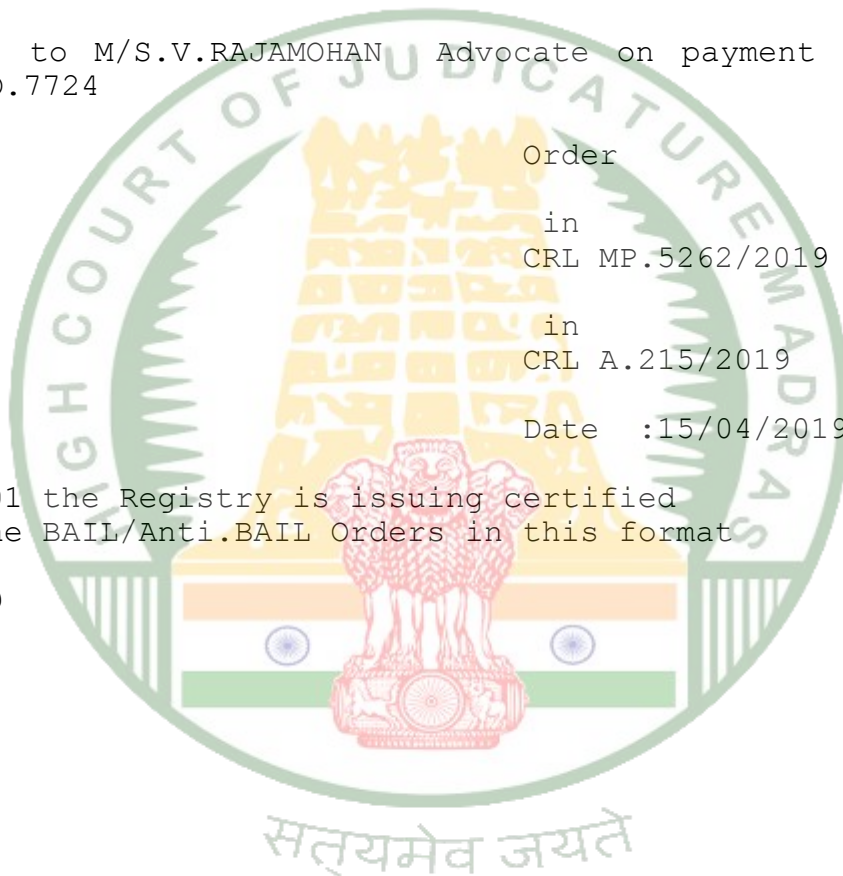
in
CRL MP.5262/2019

in
CRL A.215/2019

Date :15/04/2019

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MK:22/04/2019



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