

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Fifth day of April Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.5585 of 2019

IN CRL.A.NO.233 of 2019

V.SELVAM

[PETITIONER/APELLANT]

Vs

STATE REP BY
THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION WING,
SALEM.
CR.NO.13/AC/2008

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To suspend the sentence imposed by the order dated 29/03/2019 made in Special C.C. No.54 of 2014 on the file of the Special Judge, Special Court for Trial of Cases under the Prevention of Corruption Act, Salem, convicting the appellant under Section 7 of the Prevention of Corruption Act and imposing sentence of 2 years of Rigorous Imprisonment and fine amount of Rs.1,000/- in default of payment of fine sentencing of 3 months Rigorous Imprisonment and under Section 13 (2) read with Section 13(1)(d) of Prevention of Corruption Act and imposing the sentence of two years of Rigorous Imprisonment and fine amount of Rs.1,000/- in default of payment of fine, sentencing of 3 months Rigorous Imprisonment, pending disposal of the above Crl.A.No.233 of 2019.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.S.VADIVEL MURUGAN, Advocate for the petitioner, and of MR. K.PRABAKAR, Additional Public Prosecutor, 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 29.03.2019 made in Special Case No.54 of 2014 on the file of the Special Judge, Special Court for Trial of Cases under the Prevention of Corruption Act, Salem, pending disposal of the appeal.

2. The petitioner herein is the sole accused in Special Case No.54 of 2014 on the file of the Special Judge, Special Court for Trial of Cases under the Prevention of Corruption Act, Salem. He has been found guilty of the offences u/s. 7 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988. The petitioner has been convicted and sentenced as under:

S.No.	Conviction	Sentence
1.	U/s. 7 of the Prevention of Corruption Act, 1988.	24 months 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	24 months R.I and pay a fine of Rs.1,000/- in default to undergo 3 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 defacto complainant was working as a Senior Grade Co-operative Auditor in the Co-operative Department of the Government of Tamilnadu, Popireddipatti, Dharmapuri District, from 01.04.2008. Before that he was working as Section Assistant in the office of the Deputy Registrar of Co-operative Societies, Dharmapuri. The defacto complainant's Pay Certificate, Service Register, Leave Sanction order were received in the office of the Zonal Deputy Director, during the month of April 2008. The said documents were entrusted with the petitioner/accused, who was Accountant in the office. It is further alleged in the complaint that the petitioner/accused had been delaying the processing of the salary bill of the defacto complainant, on the ground that the defacto complainant has to produce the "Establishment G.O number", therefore the salary for the month of April 2008 was not processed and when the same was incorporated, and given on 24.05.2008, the petitioner/accused had demanded Rs.500/- as illegal gratification other than the legal remuneration and thereby the defacto complainant lodged a written complaint to the respondent police on 03.10.2008 and the same was registered in Cr.No.13/AC/2008. After completion of investigation, the respondent police laid charge sheet against the petitioner/accused for the offences under Sections 7 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, and thereby the petitioner was tried and convicted and sentenced as stated above.

4. The learned counsel appearing for the petitioner would further submit that there are several infirmities and inconsistencies found in the prosecution case. He would submit that the trial Court erred in believing the self contradictory evidence of the witness and convicted the petitioner. He would also submit that the petitioner was on bail, and that he has not misused the liberty granted to him

before the trial Court on the date of Judgment and that he has paid the fine amount before the trial Court. He would submit that the sentence of the petitioner has been suspended by the trial Court till 29.04.2019 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 counsel 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 Special Judge, Special Court for Trial of cases under the Prevention of Corruption of Act, Salem, and on further condition that the petitioner shall report before the said trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

-sd/-
25/04/2019

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,
SPECIAL COURT FOR TRIAL OF CASES UNDER THE
PREVENTION OF CORRUPTION OF ACT, SALEM.

2 THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION WING,
SALEM.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 C.C. to M/S.S.VADIVEL MURUGAN Advocate on payment of
necessary charges SR.NO.8370

Order

in
CRL MP.5585/2019
in
CRL.A.NO.233/2019

Date :25/04/2019

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copies of the BAIL/Anti.BAIL Orders in this format

TA-29/04/2019



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