

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Saturday, the Twenty Seventh day of April Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION NO.5781 OF 2019

IN CRL.A.NO.239 OF 2019

M.SIVAKUMAR

[PETITIONER / APPELLANT]

Vs

STATE REPRESENTED BY

[RESPONDENT]

THE INSPECTOR OF POLICE,
VIGILANCE AND ANTI-CORRUPTION WING,
DHARMAPURI.

CR.NO.10/AC/2009.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.239 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner made in Special C.C.No.3 of 2011 dated.26.03.2019 by the Special Judge/Chief Judicial Magistrate, Dharmapuri and the release the petitioner on bail pending CRL.A.NO.239 OF 2019

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.239 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.A.PACKIANATHAN EASTER, 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 26.03.2019 made in Spl.C.C.No.3 of 2011 on the file of the learned Special Judge/Chief Judicial Magistrate, Dharmapuri pending disposal of the appeal.

2. The petitioner herein is the accused in Special Case No.3 of 2011 on the file of the learned Special Judge/Chief Judicial Magistrate, Dharmapuri. He was found guilty of the offences u/s.7 & 13(2) r/w 13(1) & (d) of Prevention of Corruption Act, 1988 and he has been convicted and sentenced as under:

S.No.	Conviction	Sentence
1.	Section 7 of P.C Act	1 year R.I and fine of Rs.3,000/- in default to undergo S.I for 3 months

S.No.	Conviction	Sentence
2.	Section 13(2) r/w 13(1)(d) of P.C Act, 1988	1 year R.I. and fine of Rs.3,000/- in default to undergo S.I for 3 months.

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

3. The case of the prosecution is that the petitioner/appellant was working as Firka Surveyor, Marandahalli, Palacode Taluk and that he had demanded Rs.5,000/- as illegal gratification from PW.2/Raja for surveying his land and thereafter, on information given by the said Raja/P.W.2 to the respondent a trap was laid on 21.05.2009 and the petitioner/appellant was caught red handed while accepting the bribe amount and thereby, the respondent filed the final report after investigation. The petitioner/appellant was charged, tried and found guilty for the offences punishable under Sections 7 & 13(2) r/w 13(1) & (d) of Prevention of Corruption Act, 1988 and sentenced to undergo imprisonment as stated above.

4. The learned counsel for the petitioner/appellant would submit that after registration of the case the petitioner/appellant was arrested and remanded to judicial custody and thereafter 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 24.04.2019 and that he has also paid the fine amount.

5. The learned counsel for the petitioner/appellant would submit that while the petitioner/appellant 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/appellant.

6. The learned Additional Public Prosecutor has raised objections for suspending the sentence.

7. Taking into consideration the submissions made by the learned counsel 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/Chief Judicial Magistrate, Dharmapuri.

(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/-

27/04/2019

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 /
CHIEF JUDICIAL MAGISTRATE,
DHARMAPURI.

2 THE CHIEF JUDICIAL MAGISTRATE
DHARMAPURI [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
VIGILANCE AND ANTI-CORRUPTION WING,
DHARMAPURI.

+1C.C. to M/S.A.PACKIANATHAN EASTER Advocate on payment of
necessary charges SR NO.8744

Order

in
CRL MP.NO.5781/2019

in
CRL.A.NO.239/2019

Date :27/04/2019

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