

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twentieth day of June Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION Nos.7859 and 7868 of 2019

in CRL.A.Nos.348 and 349 of 2019

M.GOPALAKRISHNAN

[APPELLANT / ACCUSED
in CRL.M.P.No.7859 of 2019]

R.SOMAYAJI

[APPELLANT / ACCUSED
in CRL.M.P.No.7868 of 2019]

Vs

STATE BY

INSPECTOR OF POLICE,
SP, CBI, EOW/ACB,
CHENNAI.

RCMA1 6(A)/1996, 7(E)/1996,
8(E)/1996, 9(E)/1996, 10(E)/1996
AND 33(A)/1997.

[RESPONDENT
in both petitions]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.Nos.348 and 349 of 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence

(i) suspend the sentence imposed in C.C.No.36 of 1998 by the judgment dated 11.06.2019 passed by VIII Additional Principal Special Judge for CBI cases, against the petitioner and release him on bail [CRL.M.P.Nos.7859 & 7868 of 2019 in CRL.A.Nos.348 and 349 of 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.Nos.348 and 349 of 2019 on the file of the High Court and upon hearing the arguments of MR.M/S.SUNDER MOHAN, Advocate for the petitioner, in CRL.M.P.No.7859 of 2019 and MR.S.KATHIRAVAN Advocate for the petitioner in CRL.M.P.No.7868 of 2019 and of MR.K.SRINIVASAN Special Public Prosecutor For CBI Cases on behalf of the Respondent, in both petitions the court made the following order:-

The above miscellaneous petitions have been filed by the petitioners/appellants who are arrayed as A-1 and A-3 out of 27 accused, to suspend the sentences of imprisonment imposed vide judgment dated 11.06.2019 made in Calendar Case No.36/1998 on the file of the learned Principal Special Judge for CBI Cases, VIII Additional City Civil Court, Chennai, pending disposal of the appeals.

2 The petitioners/appellants [A-1 and A-3] were found guilty of the offences u/s.120B r/w 420, 109 r/w 420, 467, 471 r/w 467, 468 IPC and sections 13[2] r/w 13[1][c] and [d] of the Prevention of Corruption Act, 1988 and each of the petitioners/appellants [A-1 and A-3] were sentenced to undergo rigorous imprisonment for 3 years and also to pay a fine of Rs.10,000/- with a default sentence of 9 months simple imprisonment for each of the offences. A-1 and A-3 were also convicted for the offence u/s.13[2] read with 13[1][d] of the Prevention of Corruption Act, 1988 [7 counts] and [3 counts] respectively and were sentenced to undergo rigorous imprisonment for 3 years and also to pay a fine of Rs.10,000/- with a default sentence of 9 months simple imprisonment for each count. Aggrieved against the same, the petitioners have preferred the present appeals.

3 The case of the prosecution is that the petitioners/appellants [A-1 and A-3] along with the other accused, entered into criminal conspiracy and by abusing their official capacity, created forged documents and used the same as genuine ones for obtaining sanction and release of Rs.30 Crores as Secured Over Draft and to divert the same to the account of M/s.Sathyam Chemicals Pvt Ltd and other companies by creating false certificates etc., and thereby, fraudulently and dishonestly cheated the Indian Bank and committed the said offences.

4 The learned counsel for the petitioners/appellants [A-1 & A-3] would submit that there are arguable points available in the appeals and that the petitioners have got a fair chance of succeeding the appeals and would pray that the substantive sentences imposed against the petitioners may be suspended. He would also submit that the fine amounts have been paid by the petitioners and the trial Court has also suspended the sentence of imprisonment till 11.07.2019.

5 The learned Special Public Prosecutor [CBI] has raised objections for suspending the sentences.

6 Taking into consideration the submissions made by the learned counsels, the substantive sentences of imprisonment alone is suspended.

7 Hence, the sentences of imprisonment imposed on the petitioners by the trial Court alone is hereby suspended till the disposal of the appeals and the petitioners are ordered to be enlarged on bail on each of them executing a bond for Rs.50,000/- [Rupees Fifty thousand only] with two sureties each for a like sum to the satisfaction of the learned VIII Additional Special Judge for CBI Cases, City Civil Court, Chennai 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., pending appeal.

-sd/-

20/06/2019

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 VIII ADDITIONAL SPECIAL JUDGE FOR CBI CASES,
CITY CIVIL COURT,
CHENNAI

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

3 THE INSPECTOR OF POLICE,
SP, CBI, EOW/ACB,
CHENNAI.

+1 C.C. to M/S.SUNDER MOHAN Advocate on payment of necessary charges SR.NO.12142

+1 C.C. to M/S.S.KATHIRAVAN Advocate on payment of necessary charges SR.NO.12143 Order

in
CRL MP.Nos.7859 & 7868 of 2019
and
CRL.A.Nos.348 & 349 of 2019

Date :20/06/2019

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cm 20/06/2019