

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Seventh day of June Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.8288 of 2019

in CRL.A.No.382 of 2019

M.SHANMUGASUNDARAM

[PETITIONER / APPELLANT]

Vs

THE INSPECTOR OF POLICE
CENTRAL BUREAU OF INVESTIGATION,
SPE/CBI/EOW/CHENNAI.
CRIME NO.2E OF 2009.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.No.382 of 2019 on the file of the High Court, the High Court will be pleased to suspend the conviction and sentence passed against the petitioner herein in CC.No.40 of 2009 on the file of the Honble XI Additional Special Judge for CBI Cases, Chennai vide Judgement dated 31.05.2017 pending CRL.A.No.382 of 2019

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.No.382 of 2019 on the file of the High Court and upon hearing the arguments of M/S.M.DEIVANANDAM, 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 by the petitioner/appellant/A-3, to suspend the sentence of imprisonment imposed in the judgment dated 31.05.2019 made in Calendar Case No.40/2009 on the file of the learned XI Additional Special Judge for CBI Cases, Chennai, pending disposal of the appeal.

2 The petitioner/appellant is arrayed as A-3 out of four accused and he was found guilty of the offences u/s.120B read with 420, 471, 109 r/w 467, 468, 109, 420, 109 r/w 468 IPC and section 13 [2] read with 13[1][c]& [d] of the Prevention of the Corruption Act, 1988 and he has been convicted and sentenced as under:

S.No.	Conviction	Sentence
1.	120B read with 420, 471, 109 r/w 467, 468, 109 IPC & section 13[2] read with 13[1][c]&[d] of the Prevention of Corruption Act, 1988	3 years R.I and fine of Rs.25,000/- with a default sentence of 6 months simple imprisonment.
2.	420 IPC	3 years R.I and fine of Rs.25,000/- with a default sentence of 6 months simple imprisonment.
3.	109 r/w 468 IPC	3 years R.I and fine of Rs.25,000/- with a default sentence of 6 months simple imprisonment.
4.	109 r/w 467 IPC	3 years R.I and fine of Rs.25,000/- with a default sentence of 6 months simple imprisonment.
5.	471 IPC	3 years R.I and fine of Rs.25,000/- with a default sentence of 6 months simple imprisonment.

Aggrieved against the same, the petitioner/appellant/A-3 has preferred this appeal.

3 The case of the prosecution is that the petitioner/appellant/A-3, along with the other accused, viz., A-1, A-2 and A-4, entered into criminal conspiracy, and by abusing their official powers, prepared fabricated documents, viz., Salary Slips, in respect of persons who are not eligible for obtaining loans, and fraudulently obtained Bank Loan from the State Bank of Sourashtra during the period 2005 - 2007 for the construction houses by A-1, viz., M/s.Balaji Foundation and thereby, dishonestly cheated the Bank and committed the said offences.

4 The learned counsel for the petitioner/appellant/A-3 would 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 the substantive sentence imposed against the petitioner may be suspended. He would also submit that the fine amount has been paid and the trial Court has also suspended the sentence of imprisonment till 28.06.2019.

5 The learned Special Public Prosecutor [CBI] has raised objections stating that the prayer sought for in the petition is to suspend the conviction and sentence and would submit that such a prayer cannot be entertained since the petitioner has been convicted under the Prevention of Corruption Act, 1988.

6 The learned counsel for the petitioner/appellant/A-3 would submit that he is not pressing for the suspension of conviction and would pray that the substantive sentence of imprisonment alone may be suspended.

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

8 Hence, the sentences of imprisonment imposed on the petitioner/appellant/A-3 by the Trial Court alone is hereby suspended till the disposal of the appeal and the petitioner/appellant/A-3 is ordered to be enlarged on bail on his 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 XI Additional Special Judge for CBI Cases, Chennai and on further condition that the petitioner/appellant/A-3 shall report before the trial Court on the first working day of every English Calendar month at 10.30 a.m., pending appeal.

-sd/-
27/06/2019

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 XI ADDITIONAL SPECIAL JUDGE FOR CBI CASES,
CHENNAI

2 THE INSPECTOR OF POLICE,
CENTRAL BUREAU OF INVESTIGATION,
SPE/CBI/EOW/CHENNAI

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

+2 C.C. to M/S.M.DEIVANANDAM Advocate on payment of necessary
charges SR.NO.12738

Order

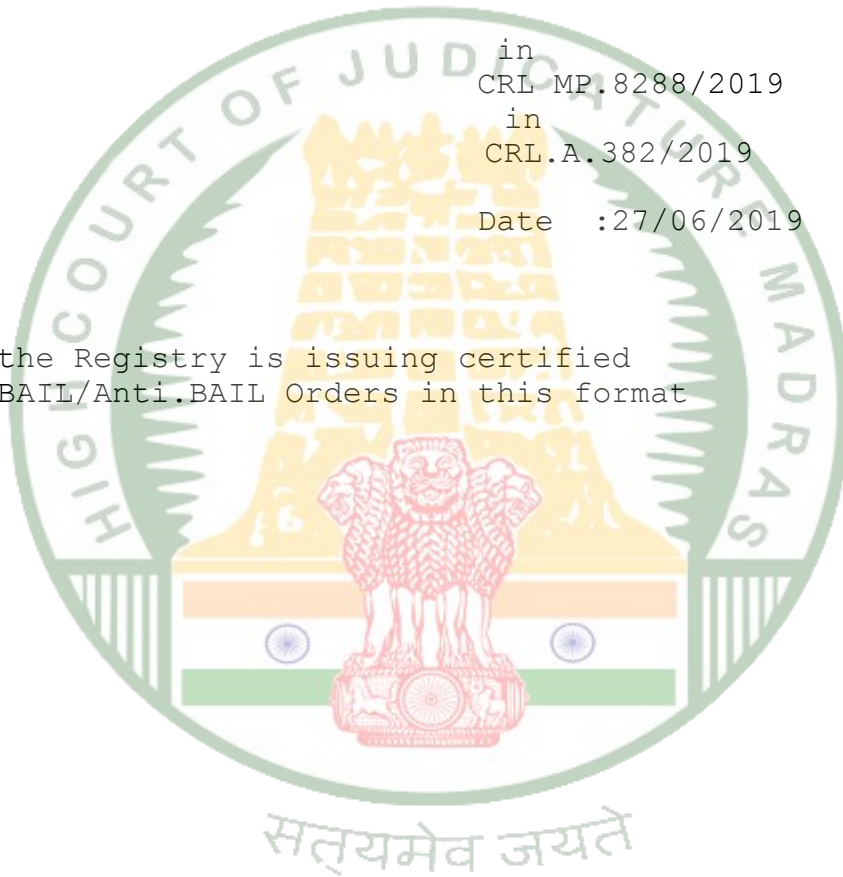
in
CRL MP.8288/2019

in
CRL.A.382/2019

Date :27/06/2019

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cm 27/06/2019



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