

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Thirteenth day of September Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL MISCELLANEOUS PETITION No.13120 of 2019

IN CRL A.603/2019

1 N.NAGAMANI

[PETITIONER]

2 NAGARATHINAM

Vs

INSPECTOR OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
SPECIAL INVESTIGATION CELL,
CHENNAI.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.603/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence passed in Special Case No.5/2012 by the Learned Special Judge and Chief Judicial Magistrate, Thiruvallur on 27.08.2019 and the petitioners have been enlarged on bail till the disposal of the Appeal No.603 of 2019.[CRL.MP.NO.13120/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.603/2019 on the file of the High Court and upon hearing the arguments of M/S. V.N.KRISHNAMURTHY Advocate for the petitioner and of MR.T.P.SAVITHA Government Advocate[crl.side] on behalf of the Respondent the court made the following order:-

The petitioners/A1 and A2 have filed the above Crl.A.No.603 of 2019 against the Judgment of conviction and sentence passed by the learned Special Judge and Chief Judicial Magistrate, Thiruvallur, dated 27.08.2019 in Special Case 5 of 2012. The conviction and sentence imposed on the petitioners/A1 and A2 are tabulated below;

	<i>Convicted for the offence</i>	<i>sentence</i>
1 st Petitioner/A1	U/s.7 of Prevention of Corruption Act 1988	Rigorous imprisonment for 6 months and to pay a fine of Rs.1000, in default, simple imprisonment for 2 months
	U/s.13(2) r/w.13(1) (d) of Prevention of Corruption Act 1988	Rigorous Imprisonment for one year and to pay a fine of Rs.1000/-, in default, simple imprisonment for two months.
2 nd petitioner/A2	U/s.7 of Prevention of Corruption Act 1988, r/w.Section 34 IPC	Rigorous Imprisonment for 6 months and to pay a fine of Rs.1000/-, in default, simple imprisonment for two months
	U/s.12 of Prevention of Corruption Act, 1988	Rigorous Imprisonment for 6 months and to pay a fine of Rs.1000/-, in default to undergo simple imprisonment for two months

Both the sentences imposed on both the petitioners are ordered to run concurrently. The fine amount was paid by the petitioners.

2. Pending Appeal, the petitioners/A1 and A2 have filed the present Crl.M.P.No.13120 of 2019 seeking suspension of sentences imposed on them by the trial court, pending disposal of the appeal.

3. The case of the prosecution is that the 1st petitioner was a former Village Administrative Officer of Pandravedu village and incharge of Kollalakuppam village and the 2nd petitioner is the husband of 1st petitioner. PW2 has lodged a complaint who holds agricultural lands in Kollalakuppam village with a borewell and he had already applied for agricultural EB motor connection for his bore-well. During November 2010, on receipt of letter from TNEB to furnish the supporting documents on 9.11.2010, he met A1 at her office at Pandravedu Village and requested her to issue chitta, Adangal, field map copy and 'A' register Abstract for his land by producing a copy of patta. At that time, the 1st petitioner demanded Rs.500/- as illegal gratification for the issuance of said documents. Not willing to pay the amount, PW2 lodged a complaint with the respondent police, consequent to which, a trap was laid. A2, under the instructions of A1, received the bribe money on behalf of A1. In the trap proceedings, Phenolphthalein test had proved positive. Thereafter, the case came to be proceeded and on completion of trial, the trial court had convicted both the petitioners as stated above.

4. The learned counsel for the petitioner would contend that the alleged trap is not proper and the 1st petitioner is only an in charge of the Pandravedu village and she has been falsely implicated

in this case and it is not necessary for PW2 to wait till the 2nd petitioner who is the husband of 1st petitioner to come and receive the trap amount and the trap itself has been a fabricated and motivated one. There has been a strong motive for PW2 to implicate the petitioners.

5. On perusal of the records, it is seen that there are arguable points to be decided in appeal. Further it is submitted that the lower court had suspended the sentence of the petitioners till 24.9.2019 and the petitioners on bail during investigation and trial.

6. Learned Additional Public Prosecutor submits that the phenolphthalein test in this case has been proved and that A2 is none other than the husband of A1 who received the bribe amount and there is no infirmity in the evidence. The trial court, on appreciation of the evidence and materials, had rightly convicted the accused and opposed for granting suspension of sentence. Further it is also submitted that the trial court suspended the sentence of the petitioners.

7. Heard learned counsel for petitioners and the learned Additional Public Prosecutor.

8. Considering the facts and circumstances of the case and the gravity of the offence this court is inclined to suspend the sentence imposed on the petitioners. Accordingly, the petition is allowed and the substantive sentences of imprisonments alone are suspended pending disposal of the appeal and the petitioners/A1 and A2 are ordered to be enlarged on bail on condition that they shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties each, for a like sum to the satisfaction of the learned Special Judge and Chief Judicial Magistrate, Thiruvallur.

9. Further the petitioners/A1 and A2 are directed to appear before the trial Court on first working day of every month till the disposal of the appeal.

-sd/-

13/09/2019

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 AND
CHIEF JUDICIAL MAGISTRATE,
THIRUVALLUR

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
SPECIAL INVESTIGATION CELL,
CHENNAI.

+1 C.C. to M/S. V.N.KRISHNAMURTHY Advocate on payment of
necessary charges SR.NO. 19118

Order

in
CRL MP.13120/2019

in
CRL A.603/2019

Date :13/09/2019

From 7.2.2001 the Registry is issuing certified
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RD 13/09/2019

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