

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Twenty Third day of September Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL MISCELLANEOUS PETITION No.13280 of 2019

IN CRL A.612/2019

1 R.KRISHNAMOORTHY

[PETITIONERS]

2 M.SIVAKUMAR

Vs

STATE OF TAMILNADU

[RESPONDENT]

REPRESENTED BY DEPUTY SUPERINTENDENT OF POLICE,
VIGILANCE AND ANTI-CORRUPTION, SALEM,
CR.NO.7/AC/2006.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.612/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence passed by the Learned Special Judge (Special Court for Trial of Cases under the Prevention of Corruption Act) Salem in Spl.C.C.No.53/2014 dated 27.08.2019 and enlarge the petitioner on bail pending the disposal of the above Crl.A.612/2019. [CRL.MP.13280/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.612/2019 on the file of the High Court and upon hearing the arguments of M/S.M.DEVARAJ, Advocate for the petitioner and of MR.K.PRABAKAR ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

Appellants were convicted for the offence under Section 7 and Section 13(2) R/w. 13(1)(d) of the Prevention of Corruption Act, 1988 and sentenced for the offence u/s.7 of the Prevention of Corruption Act the accused No.1 and 2 are sentenced to undergo Rigorous Imprisonment for one year each and a fine of Rs.5,000/- each and in default to pay the fine to undergo simple imprisonment for six months each. For the offence u/s. 13(2) R/w. 13(1) (d) of the Prevention of Corruption Act the accused No.1 and 2 are sentenced to undergo Rigorous Imprisonment for two years each and pay a fine of Rs.10,000/- each and in default to pay fine to undergo simple imprisonment for six months each. Total fine imposed on accused No.1 and 2 is Rs.30,000/-. The sentence imposed shall run concurrently, by the Special Judge (Special Court for Trial of cases under the Prevention of Corruption Act) at Salem by the Judgement dated 27.08.2019 in Spl.C.No.53 of 2014. Hence, the appellants seek suspension of sentence.

2.Heard the learned counsel for the appellants as well as the learned Government Advocate (Crl. Side).

3.The petitioners submit, there is no demand proved in this case, the Trial Court on wrong appreciation of facts had held the demand is proved. The Bill in question was presented on 14.08.2016. On the same day it was passed and cheque was issued on 17.08.2016. The intervening two days holiday was not considered.

4.The learned counsel appearing for the appellants would submit that the Trial Court has granted suspension of sentence till 26.09.2019. Further, the fine amount has also been paid. He would further submit that there are lot of material contradictions in the evidence of the prosecution and the prosecution evidence is also highly unbelievable. Further submitted that the petitioners are senior citizens in their advanced age with health ailments.

5.The petitioners submitted that in this case PW1 to PW12 were examined. Ex.P1 to Ex.P20 and MO1 to M013 were marked. PW2 is the decoy witness, PW4 is the accompanying witness, who have clearly spoken about the demand, acceptance and recovery of the bribe money. Further, the entrustment Mahazar and recovery Mahazar are in confirmity with the case of the prosecution. PW2 is the retired teacher and the bribe has been demanded to process and issue cheque for his pension arrears and commutation amount. The Lower Court on appreciation of evidence had convicted the petitioners. Further submitted that the Lower Court had suspended the sentence of the petitioner till 26.09.2019.

6..Having regard to the fact that there are arguable points involved in the appeal and further, the appeal is not likely to be taken up for final hearing in the near future and also considering the Trial Court has suspended the sentence till 26.09.2019, this Court is of the considered opinion that the appellants are entitled for the relief of suspension of sentence.

7.Accordingly, the substantive sentence of imprisonment alone is suspended and the appellants are directed to be enlarged on bail, on condition that the appellants shall execute a bond for a sum of Rs.25,000/- (Rupees Ten Thousand only) each, with two sureties each for a like sum to the satisfaction of Special Judge (Special Court for Trial of Cases under the Prevention of Corruption Act) at Salem and on further condition that the appellants shall appear before the said Court at 10.30 a.m. on the first working day of every alternate month of English Calendar, pending appeal.

-sd/-

23/09/2019

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
SPECIAL COURT FOR TRIAL OF CASES UNDER THE
PREVENTION OF CORRUPTION ACT] AT SALEM

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 STATE OF TAMILNADU
REPRESENTED BY DEPUTY SUPERINTENDENT OF POLICE,
VIGILANCE AND ANTI-CORRUPTION, SALEM,

+1C.C. to M/S.M.DEVARAJ Advocate on payment of necessary
charges SR.NO. 19786

Order

in
CRL MP.13280/2019

in
CRL A.612/2019

Date :23/09/2019

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RD 23/09/2019



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