

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Sixth day of September Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL MISCELLANEOUS PETITION No.13785 of 2019

IN CRL A.650/2019

1 MARUVOOR ARASI TEXTILES INDIA
PRIVATE LIMITED, REPRESENTED BY
ITS MANAGING DIRECTOR N.KARTHIKEYAN.

[PETITIONERS]

2 N.KARTHIKEYAN
3 N.RAGUPATHY
4 N.VENKATARAMAN

Vs

THE INSPECTOR OF POLICE,
CBI/SCB/CHENNAI,
RC NO.6(S)/2010.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.A.No.650 of 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner by the Judgment dated 28.08.2019 made in C.C.No.8/2011 on the file of II Additional District Judge (CBI Cases), Coimbatore, pending Crl.A.No.650 of 2019.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.650 of 2019 on the file of the High Court and upon hearing the arguments of M/S.P.KANNAN KUMAR, Advocate for the petitioner and of M/S K.SRINIVASAN, SPECIAL PUBLIC PROSECUTOR FOR CBI CASES, on behalf of the Respondent the court made the following order:-

The petitioners are A1 to A4. A1 and A4 are found guilty of the offence punishable u/s.120B, r/w 420, 467, 468, 471 & 472 IPC and Section 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988 and of the substantive offences punishable u/s.420 and 471 IPC and A1 and A4 are convicted and sentenced to undergo Rigorous Imprisonment for two years each and to pay a fine of Rs.5,000/- each in default to undergo Simple Imprisonment for Six months each, for the offence punishable u/s.120B r/w.420, 467, 468, 471 & 472 IPC and Section 13 (1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988 and A1 and A4 are also convicted and sentenced to common intention and conspiracy of the accused A2 to A4 and A6 to A10 which was ably assisted by A5 by misuse his official position as Business Development Manager of Global Trade Finance Limited. A2 and A3 are found guilty of committing the offence punishable u/s. 120B r/w.420,

467, 468, 471 & 472 IPC and Section 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988 and of the substantive offences punishable u/s.420, 467, 468, 471, 472 IPC and A2 and A3 are convicted and sentenced to undergo Rigorous Imprisonment for two years each and to pay a fine of Rs.5,000/- each in default to undergo Simple Imprisonment for Six months each, for the offence punishable u/s.120B r/w.420, 467, 468, 471 & 472 IPC and Section 13(1)(d) r/w 13 (2) of the Prevention of Corruption Act, 1988 and A2 and A3 are also convicted and sentenced to undergo Rigorous Imprisonment for two years each and to pay a fine of Rs.5,000/- each in default to undergo Simple Imprisonment for six months each, for each of the substantive offences punishable u/s.420, 467, 468, 471, 472 IPC. Total fine imposed against A2, A3 if Rs.30,000/- each. All the sentences imposed against all the accused are ordered to run concurrently. The detention period if any already undergone by all of the accused are ordered to be set off u/s.428 Cr.P.C. The sentence of imprisonment imposed against A1 Company is to be undergone by A2 who is the Managing Director of A1 company and the same is ordered to run concurrently with the sentence of imprisonment imposed against A2 by the II Additional District Judge (CBI Cases) at Coimbatore by the Judgement dated 28.08.2019 in C.C.No.8 of 2011. Hence, the petitioners seek suspension of sentence.

2.Crl.M.P.No.13785 of 2019 has been filed seeking suspension of sentence imposed on the petitioners.

3.The learned counsel for the petitioners submit that there are several infirmities and inconsistencies found in the prosecution case. It is contended that there are contradictions in the material particulars between the evidence of the prosecution witnesses. The petitioner submits that the entire loan amount is repaid. As per D14 it is proved that there is no due. The Lower Court failed to consider the same. The petitioners submit that when the loan was availed, the Global Trade Finance Limited was a private concern. Later only it was acquired by SBI Global Finance Ltd., The Lower Court has suspended the sentence of the petitioners till 28.09.2019.

4.The learned Special Public Prosecutor, CBI appearing for the respondent submitted that the trial Court on consideration of the gravity of the offence had reached its conclusion holding the appellants are guilty of the offences. There are enough materials by way of oral and documentary to show that the appellants had acted in connivance with each other and committed the offence. Mere repayment of loan amount will not absolve the accused from criminal liability. Hence he opposed the bail application of the appellants. He would further submit that the sentence imposed on the accused have been suspended by the trial court till 28.09.2019.

5.Heard the learned counsel for the petitioners as well as the learned Special Public Prosecutor (CBI Cases).

6.Therefore, in view of the fact that there are several infirmities in the prosecution case and there are arguable points involved in the appeal as contended by learned counsel for

petitioners and further the appeal is not likely to be taken up for final hearing in the near future, this Court is of the considered view that the petitioners herein are entitled to the relief of grant of suspension of sentence.

7. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioners are directed to be enlarged on bail on condition that the petitioners shall execute a bond in a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties each for a like sum to the satisfaction of the learned II Additional District Judge (CBI Cases), Coimbatore and on further condition that the petitioners shall appear before the said Court on the first working day of every month at 10.30 a.m. Pending Appeal.

-sd/-

26/09/2019

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 II ADDITIONAL DISTRICT JUDGE
(CBI CASES), COIMBATORE.

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

3 THE INSPECTOR OF POLICE,
CBI/SCB/CHENNAI.

C.C. to M/S.P.KANNAN KUMAR Advocate on payment of necessary charges SR.NO.20144

Order

in

CRL MP.13785/2019

in

CRL A.650/2019

Date :26/09/2019

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RVR 27/09/2019