IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Thirteenth day of November Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL MISCELLANEOUS PETITION No.16466 of 2019

IN CRL.A.NO.770 OF 2019

1 C.P.ANGAMUTHU [PETITIONERS]
2 M.RAMANTHAN

Vs

STATE BY [RESPONDENT]
INSPECTOR OF POLICE,
CBI-ACB/CHENNAI,
NO.6, HADDOWS ROAD,
NUNGAMBAKKAM, CHENNAI.

Petition praying that in the circumstances stated therein the High Court will be pleased to suspend the order of sentence passed by the Honble II Additional District Judge, (CBI Cases), Coimbatore dated 31.10.2019 in CC NO.33/2004 arising out of RC MA 2002-A-0020/CBI/ACB/Chennai, passed against the Appellants under sections punishable u/s.120-B r/w 420,467 r/w 471 of IPC AND SECTION 13(2)R/W 13(1)(D)OF THE PREVENTION OF CORRUPTION Act 1988 and for the substantive offences u/s 420 of IPC (158 COUNTS) AND SECTION 13(2) R/W 13(1)(d)of the prevention of corruption Act 1988, and A1 and A2 are convicted and sentenced to udnergo Rigorous imprisonment for period of two years each and to pay a fine of RS.500/- each in defult to undergo simple imprisonment for three months for the offence u/s 120-B r/w 420,467 r/w 471 of IPC AND SECTION 13(2)R/W 13(1)(d)of the prevention of corruption Act 1988 and for each count of the substantive offence U/S420 OF IPC (158 COUNTS) AND FOR THE SUBSTANTIVE OFFOENCE U/S. 13(2)R/W 13(1)(d)of the prevention of corruption Act 1988. The total fine imposed against A1 and A2 is Rs.80,000/- Each[500 X 160=Rs.1.60,000) pending disposal of the above Appeal and enlarge the Appellants on bail.

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S.V.S.VENKATESH, Advocate for the petitioner and of MR.K.SRINIVASAN FOR CBI CASES on behalf of the Respondent the court made the following order:-

This Criminal Appeal has been filed by the petitioners/ A1 and A2 against the Judgment of conviction and sentence passed by the learned II Additional District Judge, (CBI Cases), Coimbatore dated 31.10.2019 in C.C.No33 of 2004. The conviction and sentence imposed by the trial court are tabulated below;

petitioner	array of rank	conviction	sentence
Petitioners 1 and 2	A1 and A2 respectively	(i) for offence u/s.120-B, r/w.420, 467, r/w.471 of IPC and Section 13(2) r/w.13(1)(d) of the Prevention of Corruption Act, 1988 and	to undergo RI for two years each and to pay a fine of Rs.500/-, each, in default, to undergo SI for three months
		(ii) for the substantive offences u/s.420 of IPC (158 counts) and section 13 (2) r/w.13(1)(d) of the Prevention of Corruption Act, 1988	for each count of substantive offences, to pay fine of Rs.80,000/- each (Rs.500 x 160 = Rs.80,000 x 2 = Rs.1,60,000/-)

Total fine imposed against A1 and A2 is Rs.1,60,000/-.

2. .The gist of the case is as follows;

(i) A1 and A2 who were employed as Senior Manager-cum-Branch Manager and Section Supervisor, respectively in Canara Bank, Erode. During the period 2000 to 2001, A1 and A2 conspired among other accused A3 to A12 by illegal means advanced huge credit facilities to A3 to A6 and in furtherance of the said criminal conspiracy tendered 48 fabricated secured demand bills (SDB) drawn on existing/non existing firms to the tune of R.42,23,670/- and the same were discounted and proceeds were credited to the respective accounts of the accused persons.

(ii) A1 and A2 by abusing their official position allowed those bills, discounted by knowing fully well that those bills were fake and also they had knowledge that A3 to A6 were not sending genuine goods. The fabricated bills discounted by Canara Bank were ultimately returned by the drawee bank for want of clearance.

(iii) In furtherance of the said conspiracy A3 to A6 got cheques from A8 to A13 which were drawn from the accounts in the name of the fictitious firms floated by A8 to A13 in various banks for the purpose of discounting cheques under CDB Limit through Canara Bank. A8 to A13, knowing fully well that A8 to A13 are none other than their employees fraudulently issued 110 cheques aggregating to Rs.79,92,534/- in favour of A3 to A6, who inturn, dishonestly presented those cheques and got discounted and the proceeds were credited in to their respective accounts and subsequently withdrew the amounts. Thus A1 and A2 continuously allowed the discount of the cheques knowing fully well that the cheques were drawn for the purpose of cheating Canara Bank. Further A1 and A2 adjusted the accounts from OCC limit sanction to the firm and funds were transferred from the sister concern to OCC accounts of the respective firms and then adjusted to CDB limits and whenever limits were falling short, A1 using his emergency power committed transgression under OCC limits. Thus A1 and A2 along with other accused caused wrongful loss of Rs.1,54,44,982/- to Canara Bank.

3 .The learned counsel for the petitioners would submit that the 1st petitioner met with a road accident and was on leave from 6.9.1998 to 15.2.1998. During this period, PW1 Sivakumar who functioned as Manager, Canara Bank has recommended and forwarded the proposals to the AGM , Coimbatore pertaining to the other accused. The 1st petitioner is the Branch Manager and the 2nd petitioner is Manager , in charge of advance section and they have processed part of the bills and major bills have been passed by the other officials the Bank who have been examined as witnesses. The trial Court without considering the same, had convicted both the petitioners for 158 counts. The petitioner has only passed 31 cheques and it is pertinent to note that these cheques are neither in the initial period, nor in closing period and they are in between period, the officials who had passed the cheques before the petitioners passed the cheque and after petitioners passed the cheque are cited as witnesses. The lower court failed to appreciate this aspect and wrongly convicted them for 158 counts. He would further submit that the lower court already suspended the sentence till 29.11.2019.

4. He would further submit that the petitioners are now retired from service and they are senior citizens and are having health problems arising out of their old age. Thus he prayed for suspension of substantive sentence of imprisonment imposed on the petitioners and leniency while imposing conditions.

5.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 it's conclusion holding that the petitioners are guilty of the offences. There are enough materials by way of oral and documentary to show that the petitioners had acted in connivance with other accused and committed the offence. Hence he opposed the bail application of the petitioners. He would further submit that the sentence imposed on the accused have been suspended by the trial court, till 29.11.2019.

6.Considering the facts and circumstances of the case and nature of the offence and also taking note of the fact that there are arguable points involved in this appeal and they are suffering from age related problems and they are far away residing from the trial court, this Court is inclined to suspend their substantive sentence of imprisonment alone till the disposal of the appeal.

7.Accordingly the substantive sentence of imprisonment imposed on the petitioners/A1 and A2 are suspended till the disposal of the appeal and the petitioners 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 II Additional District Judge, CBI Cases, Coimbatore.

8.Further the petitioners/A1 and A2 are directed to appear before the trial Court once in every six months on the first working day of the month at 10.30 a.m., until further orders.

-sd/-
13/11/2019

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 II ADDITIONAL DISTRICT JUDGE[CBI CASES]COIMBATORE

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE[FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
CBI-ACB/CHENNAI,
NO.6, HADDOWS ROAD,
NUNGAMBAKKAM, CHENNAI.

+1 C.C. to M/S.V.S.VENKATESH Advocate on payment of necessary charges SR.NO. 23258

Order

in
CRL MP.16466/2019

IN CRL.A.NO.770 OF 2019

Date :13/11/2019

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RD 18/11/2019