

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Sixteenth day of March Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL MISCELLANEOUS PETITION No.3439 of 2020

IN CRL.A.NO.191 OF 2020

K.GANESAN

[PETITIONER]

Vs

STATE REP.BY

[RESPONDENT]

ADDITIONAL SUPERINTENDENT OF POLICE,
CBI/SPE/ACB/CHENNAI.
(RC MA 1 2004 A 0065)

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.191/2020 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner/appellant herein passed by the learned Court of XIII Additional Special Judge/Special Judge for CBI Cases, Chennai-104, by Judgment dated 22.01.2020 made in CC.NO.28 of 2006 and enlarge the petitioner on bail pending disposal of the above criminal Appeal.[CRL.MP.NO.3439/2020]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.191/2020 on the file of the High Court and upon hearing the arguments of M/S.K.SHANKER, Advocate for the petitioner and of MR.K.SRINIVASAN SPEPCIAL PUBLIC PROSECUTOR, FOR CBI CASES on behalf of the Respondent the court made the following order:-

This Criminal Appeal has been filed by the petitioner/A1 against the Judgment of conviction and sentence passed by the learned XIII Additional Special Court For CBI Cases, Chennai, dated 22.01.2020 in Special C.C.No.28 of 2006. The conviction and sentence imposed by the trial court are as follows:-

Petitioner /Accused	Conviction	Sentence
Petitioner/ Accused	Convicted for the offence under Sections 120-B r/w 419,420,467,468 r/w 471 I.P.C & Sec.13 (2) r/w 13(1) (d) P.C Act, 1988	(i) To undergo imprisonment for a period of two years and to pay a fine of Rs.1,000/-, in default to undergo simple imprisonment for one month under Section 120 B I.P.C; (ii) To undergo imprisonment for a period of two years and to pay a fine of Rs.1,000/-, in default to undergo simple imprisonment for one month under Section 419 I.P.C; (iii) To undergo imprisonment for a period of two years and to pay a fine of Rs.10,000/-, in default to undergo simple imprisonment for one month under Section 420 I.P.C; (iv) To undergo imprisonment for a period of two years and to pay a fine of Rs.1,000/-, in default to undergo simple imprisonment for one month under Section 467 I.P.C; (v) To undergo imprisonment for a period of two years and to pay a fine of Rs.1,000/-, in default to undergo simple imprisonment for one month under Section 468 I.P.C; (vi) To undergo imprisonment for a period of two years and to pay a fine of Rs.1,000/-, in default to undergo simple imprisonment

Total fine imposed against the petitioner is Rs.16,000/- (Rupees Sixteen thousand only).

2.The gist of the case is as follows:-

2.1. The petitioner was the Senior Maintenance Engineer (Electricals) in the Madras Atomic Power Station (MAPS), Kalpakkam. During his tenure, from 2001 to 2003, a necessity arose in the MAPS for installation of capacitors, load banks and 240 volt AC panels. A2 and A3 are close relatives of the first petitioner. A4 is the friend of A2 and it was also found that two firms namely Bharath Electricals and another one Sham Agency were found to be non existence and it was not covered by the Income Tax Department. Further, the said firms had purchased the property from other firm and thereafter, had inflated rate it has supplied the materials to MAPS. The Commercial Tax officers as well as Bank officials have clearly stated about the non existence of A2 and A3 firms. A1 had set up A2 and A3 to supply material with inflated rates thereby A1 to A3 made illegal gains and gratification.

2.2.The contention of the petitioner is that during the year, the petitioner was Superintendent Engineer and was not involved in the tendering process. P.W.14 was the tendering officer and the petitioner was assigned the job of maintenance and he had received the materials. The same were found to be in good condition, and they were utilized. Further, the Investigation Officer admits in his evidence that the original price list were not seized and produced in Court to show that materials supplies were inflated with the rate. Further stated that A2 is not a relative. He further submitted that for the past 12 years A1 is without any job and due to the pendency of the above case his family life got disturbed and he is living alone he is aged about 65 years with health ailments. Further submitted that this Court had already suspended the sentence for A2 and A3.

3. The learned Additional Public Prosecutor further submitted that the trial Court, on consideration of the gravity of the offence, had reached its conclusion holding that the petitioner was guilty of the aforesaid offences. Hence he opposed to grant suspension of sentence of the petitioner.

4.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 it would take some time for the appeal to be taken up, this Court is inclined to suspend Substantive Sentence of Imprisonment alone till the disposal of the appeal.

5. Considering the above submissions, this Court is inclined to suspend the sentence and the petitioner agreed to deposit Rs.1,00,000/- by way of fixed deposit before the trial Court while executing the sureties and this has to be done within a period of three weeks from the date of receipt of a copy of this order.

on the petitioner is suspended till the disposal of the appeal and the petitioner/Accused is ordered to be enlarged on bail, on condition that she shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, each for a like sum to the satisfaction of the learned XIII Additional Special Court for CBI Cases, Chennai.

7. Further, the petitioner is directed to appear before the trial Court on the first working day of every English month at 10.30 a.m., until further orders.

-sd/-

16/03/2020

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 XIII ADDITIONAL SPECIAL
COURT FOR CBI CASES, CHENNAI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 STATE REP. BY
ADDITIONAL SUPERINTENDENT OF POLICE,
CBI/SPE/ACB/CHENNAI. (RC MA 1 2004 A 0065)

+1 C.C. to M/S.K.SHANKER Advocate on payment of necessary charges SR.NO. 5107

WEB COPY
Order
in
CRL MP.3439/2020

IN CRL.A.NO.191 OF 2020

Date :16/03/2020

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