

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Criminal Jurisdiction )

Monday, the Ninth day of March Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL MISCELLANEOUS PETITION No.3021 of 2020

IN CRL A.162/2020

CHINNAMANIKAM

[ PETITIONER ]

Vs

STATE REP BY

[ RESPONDENT ]

DEPUTY SUPERINTENDENT OF POLICE,  
VIGILANCE AND ANTI CORRUPTION,  
DHARMAPURI.  
CR.NO.05/AC/2009/DPI.

Petition praying that in the circumstances stated therein the High Court will be pleased to enlarge the petitioner on bail in connection with judgement dated 18.02.2020 passed in Spl.CC No.10/2010 on the file of the Chief Judicial Magistrate, Dharmapuri pending disposal of the above appeal.[CRL.MP.NO.3021/2020]

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S.R.EZHILARASAN, Advocate for the petitioner and of MR.SKARTHIKEYAN ADDL.PUBLI PROSECUTOR [V AND AC] on behalf of the Respondent the court made the following order:-

This Criminal Appeal has been filed by the petitioner/accused against the Judgment of conviction and sentence passed by the learned Special Judge, Chief Judicial Magistrate, Dharmapuri, dated 18.02.2020 made in Special C.C.No.10 of 2010. The conviction and sentence imposed by the trial court are as follows:-

| <b><i>Petitioner<br/>/Accused</i></b> | <b><i>Conviction</i></b>                                                                                      | <b><i>Sentence</i></b>                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|---------------------------------------|---------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Petitioner/<br>Accused                | Convicted for the offence under Sections 7 and 13(1) (d) r/w 13(2) of the Prevention of Corruption Act, 1988. | To undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.500/-, in default to undergo simple imprisonment for three months for the offence under Section 7 of the Prevention of Corruption Act, 1988 and Section 13 (1)(d) read with 13 (2) of the Prevention of Corruption Act, 1988 to undergo one year rigorous imprisonment and to pay a fine of Rs.1,000/-, in default to undergo simple imprisonment for a period of three months. |

Total fine imposed against the petitioner is Rs.1,500/- (Rupees one thousand and five hundred only).

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

P.W.2, who is the defacto-complainant, was residing at Poomathampatti village of Palacode Taluk and working as Checking Inspector in Tamil Nadu State Transport Corporation. He and his father-in-law being the members of Primary Agricultural Co-operative Bank, approached the accused in his office and applied for cattle loan. After completion of formalities, the initial amount has been paid. Thereafter, the loan was sanctioned. When P.W.2 had approached the petitioner for the disbursement of the loan, the petitioner has said to have demanded initially Rs.2,000/- and thereafter, reduced the demand to Rs.1,500/- P.W.2, unwilling to pay the bribe amount, had approached the respondent and lodged the complaint. Thereafter, on 20.03.2009 a trap was laid and directed the petitioner to give the bribe amount on 20.03.2009 at 9.30 a.m at Palacode Bus Stand. Thereafter, the V&AC officials followed the petitioner and seized the bribe amount after due verification. Thereafter, the Trial Court believing the evidence of P.W.2, 14 and other witnesses, had convicted the petitioner as stated above. The sentence is suspended till 17.03.3020.

3.The learned Additional Public Prosecutor (Crl.Side) submits that in this case for the release of cattle loan the petitioner had

demanding bribe amount of Rs.2,000/-. Thereafter, the same was reduced to Rs.1,500/- The demand has been made on 3 occasions. The petitioner had received the bribe amount in a public place to avoid being caught. The bribe amount had been recovered from the petitioner. His hand wash and as well as shirt pocket wash proved positive. He has further categorically contended that the insurance for cattle is to be made only from the loan amount and the explanation given by the petitioner is only to escape from the case. He was on bail during investigation and trial.

4. The learned counsel for the petitioner further submitted that the petitioner has already paid the fine amount of Rs.1,500/- (Rupees one thousand and five hundred only) on 11.02.2020 and he was on bail during investigation and trial. Further, the petitioner has arguable points and fair chance of success in this appeal. Thus, he prayed for Suspension of Substantive Sentence of Imprisonment imposed on him till the disposal of the appeal.

5. The learned Additional Public Prosecutor submitted that the trial Court found the amount of Rs.1,500/- (Rupees one thousand and five hundred only) recovered from the petitioner during the trap which proved the guilt of the petitioner. Further, the result of the chemical re-action as Phenolphthalein test proved positive and the prosecution has successfully discharged its burden of proving that the accused accepted the amount other than the legal remuneration.

6. 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 to the petitioner.

7. 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.

8. Accordingly, the Substantive Sentence of Imprisonment imposed 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 he 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 Special Judge, Chief Judicial Magistrate, Dharmapuri for Trial of the Prevention of Corruption Act, Coimbatore.

9. 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/-  
09/03/2020

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 SPECIAL JUDGE  
CHIEF JUDICIAL MAGISTRATE,  
DHARMAPURI FOR  
TRIAL OF THE PREVENTION OF CORRUPTION ACT,  
COIMBATORE

2 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

3 THE CHIEF JUDICIAL MAGISTRATE  
DHARMAPURI

4 THE DEPUTY SUPERINTENDENT OF POLICE,  
VIGILANCE AND ANTI CORRUPTION,  
DHARMAPURI.  
CR.NO.05/AC/2009/DPI.

C.C. to M/S.R.EZHILARASAN Advocate on payment of necessary charges

Order

in  
CRL MP.3021/2020

in  
CRL A.162/2020

Date :09/03/2020

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