

Crl.M.P.Nos.3082, 3249 and 3250 of 2020
in Crl.A.Nos.167, 182 and 183 of 2020

N.Sathish Kumar,J.

These applications have been filed to suspend the sentence imposed by the learned Trial Court for various offences as under:

<i>Section of Law</i>	<i>Accused persons</i>	<i>Sentence Imposed</i>	<i>Fine levied</i>
11 of PC Act, 1988	A-1 Shri R.Thiyagarajan	4 years RI	Rs.3 lakhs
13(2) of PC Act, 1988	A-1 Shri R.Thiyagarajan	5 years RI	Rs.10 lakhs
120-B of IPC r/w 11 and 13(2) of PC Act, 1988	A-1 Shri R.Thiyagarajan	2 years RI	Rs.10,000/-
120-B of IPC r/w 11 and 13(2) of PC Act, 1988	A-2 M/s.Kannammal Educational Trust represented by A-4	--	Rs.10 lakhs
12 r/w 11 of PC Act, 1988	A-2 M/s Kannammal Educational Trust represented by A4	--	Rs.10 lakhs
109 of IPC r/w 13(2) of PC Act, 1988	A-2 M/s Kannammal Educational Trust represented by A-4	--	Rs.15 crores
120-B of IPC r/w 11 and 13(2) of PC Act, 1988	A-3 Shri R.Rajasekaran	4 years RI	Rs.1 Crore
12 r/w 11 of PC Act, 1988	A-3 Shri R.Rajasekaran	7 years RI	Rs.10 lakhs
109 of IPC r/w 13(2) of PC Act, 1988	A-3 Shri R.Rajasekaran	7 years RI	Rs.1 lakh
120-B of IPC r/w 11 & 13(2) of PC Act, 1988	A-4 K.N.Ramachandran	4 years RI	Rs.1 Crore
12 r/w 11 of PC Act, 1988	A-4	7 years RI	Rs.10 lakhs

<i>Section of Law</i>	<i>Accused persons</i>	<i>Sentence Imposed</i>	<i>Fine levied</i>
	K.N.Ramachandran		
109 of IPC r/w 13(2) of PC Act, 1988	A-4 K.N.Ramachandran	7 years RI	Rs.1 lakh

Now these applications have been filed for suspension of sentence.

2. Heard Mr.Duraiswamy, learned senior counsel appearing for A1 and Mr.K.S.Dinakaran, learned Senior counsel appearing for A2 to A4. Mr.K.Srinivasan, learned Spl. Public Prosecutor (CBI Cases) appearing for the respondent.

3. The learned senior counsel for A1 submitted that the Trial Court has convicted the accused mainly on the basis of the suspicion and presumption and the prosecution has not proved the case beyond doubt. The learned senior counsel contented that whether the Trust can be prosecuted or not by itself a question, since the Prevention of Corruption Act has not defined the same. Similarly, in Indian Penal Code also, there is no definition for the objections raised in this regard, the same was not considered by the Trial Court.

4. It is the contention that A3 and A4 being the trustees, have availed the loan illegally and the loan was also sanctioned legally. In view of some default, they have been prosecuted and their contention is that there is no falsification of records and the property worth about Rs.200 Crores was already secured by the Bank, and the proceedings before DRT is pending. The lower Court has not considered these aspects and simply considered the case of the prosecution. Hence, they pray for suspension of sentence.

5. It is the contention of the learned senior counsel that A1 was granted permission by sanctioning authority to go abroad and since the entire amount is secured, the petitioner seeks suspension of sentence.

6. Mr.K.Srinivasan, learned Spl. Public Prosecutor (CBI Cases) filed a counter and submitted that the Trial Court has fast tracked the case against the politicians and the trial has been conducted on a day-to-day basis and A1 has sanctioned the loan and availed the facilities to go to the foreign countries and stayed in London at the expenses of A3 and A4. Hence, his main contention is that the white collar official who is in a highest position in the Bank, committed the above offence.

7. Mr.K.S.Dinakaran, learned senior counsel for the accused A3 and A4 submitted that these accused ready to pay Rs.50,00,000/- towards the fine amount and some time may be granted for the same.

8. Perused the materials as indicated above. The Trial Court has found the accused A1 to A4 guilty on various charges. The main allegation of the prosecution is that A1 has sanctioned the loan illegally and received the benefits from A3 and A4. A3 and A4 defaulted in payment of money, which has resulted in huge loss to the bank.

9. Having regard to the nature of allegations, since the appeal is statutory right, which is available to the petitioners, further appeal is not likely to be heard immediately, in view of the pendency and no other exceptional circumstances exist to deny the bail, this court is of the view that suspension of sentence can be ordered and the accused be released on following conditions:-

(i) A1 shall deposit the entire fine amount of Rs.13,00,000/-, within a period of 30 days from the date of their release;

(ii) A3 and A4 shall deposit each Rs.50,00,000/- before the Trial Court, within a period of 30 days from the date of his release;

(iii) A1, A3 and A4 shall not leave the country without permission of this Court and they shall surrender the passport before this Court immediately after their release. Each of the accused shall execute the separate bond for Rs.2,00,000/- with two sureties each likesum to the satisfaction of the Trial Court.

(iv) A1, 3 and 4 shall appear before the trial Court at 10.00 a.m., on every working hours until further orders from the Court.

10. In the event of non payment of fine within 30 days as ordered, the above bail granted by this Court shall automatically cancelled and the accused will be re-arrested and sent to jail. With the above conditions, bail is granted to A1, A3 and A4.

11. As far as A2 is concerned, since it is only a Trust, this Court is of the view that no need to suspend the sentence against A2.

12. All the legal submissions made in this regard, can be canvassed at the time of final hearing of the appeal.

13. Registry is directed to put up the typed set of papers and post the matter on 05.06.2020.

20.03.2020

N.SATHISH KUMAR, J.

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