

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15-05-2020

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THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Crl.M.P.No.3528 of 2020
in Crl.A.No.199 of 2020

R.Karthik Raja

... Appellant

Vs.

State Rep. by
The Inspector of Police,
V & AC, Villupuram.

... Respondent

Criminal Miscellaneous Petition filed under Sections 397 & 439 of Cr.P.C, to suspend the sentence imposed by the learned Special Court for Prevention of Corruption Act Cases, Villupuram in Spl.Case No.03/2016 on 04.03.2020 and enlarge the petitioner on bail till the disposal of Criminal Appeal.

For Appellant : Mr.G.Karthikeyan
for Mr.K.Gangadaran

For Respondent : Mr.R.Ravichandran
Govt. Advocate (Crl. side)

JUDGMENT

This is the petition filed to suspend the sentence made by the trial Court, i.e., Special Court for Prevention of Corruption Act Cases, Villupuram by Judgment and Conviction, dated 04.03.2020 made in Spl.Case No.03/2016.

2. It is a case arising out of a trap, where the accused was charged under the punitive sections punishable under Sections 7, 13(2) r/w 13 (1) (d) of Prevention of Corruption Act, 1988. There had been 11 witnesses on behalf of the prosecution side. After trial, the trial court has convicted through the impugned judgment, the appellant by found him guilty under Sections 7, 13(2) r/w 13(1) (d) of Prevention of Corruption Act and accordingly, sentenced to undergo 4 years RI and imposed a fine of Rs.5,000/-, in default to undergo 6 months SI under Section 7 of Prevention of Corruption Act and also sentenced to undergo 4 years RI and imposed a fine of Rs.5,000/-, in default to undergo 6 months SI under Section 13 (2) r/w 13(1) (d) of Prevention of Corruption Act. The sentence is ordered to run concurrently.

3. As against the said Judgment and conviction, the present Appeal has been filed, where the present petition for suspension of sentence has been moved by the petitioner / appellant.

4. Heard Mr.G.Karthikeyan, learned counsel appearing for the petitioner / appellant who heavily relied upon the deposition of P.W.3, who was the defacto complainant, as he only set the law in motion for setting up a trap by the respondent / prosecution. In his deposition, that P.W.3, as has been pointed out by

the learned counsel appearing for the petitioner that, had already approached the appellant / accused in respect of the disputed land for getting patta and in this regard it seems that, the appellant / accused had turned down the plea raised by P.W.3 for getting patta, instead, the appellant / accused claimed to have proposed to give patta to one Mayavan, based on the documents and this move of giving patta to one Mayavan was strongly opposed by P.W.3 complainant and despite all those opposition, the appellant / accused seems to have given patta in favour of the said Mayavan, therefore that triggered the P.W.3 complainant to settle the score and with the result, he made a false complaint as if the appellant / accused demanded bribe of Rs.5,000/- and ultimately trap was set up.

5. Therefore relying upon these aspects, the learned counsel appearing for the petitioner / appellant would submit that, absolutely there has been no demand on the part of the appellant / accused and in view of the previous enmity due to the aforesaid interest which has come from the mouth of P.W.3 himself in the deposition, the trap was set up only to take revenge against the appellant and these aspects have to be gone into in detail only at the time of appeal and therefore since it take some reasonable time to take up the Appeal for final hearing, benefit of suspension of sentence can very well be extended to the petitioner / appellant, he contended.

6. However, Mr.R.Ravichandran, learned Government Advocate for the respondent State would submit that, there has been 11 witnesses on the part of the prosecution out of whom there were eye witnesses even at the time of trap taken place and the eye witness had deposed in support of the prosecution case that, the petitioner / appellant demanded the bribe and therefore it is not a conviction merely based on the prosecution case as projected in the charge but also on clinching evidence of deposition, where at least two eye witnesses deposed in support of the prosecution and therefore the plea now raised by the petitioner / appellant for the purpose of suspension of sentence may not be justifiable and therefore the learned Government Advocate strongly opposes the move on the part of the petitioner / appellant to seek for suspension of sentence.

7. I have considered the aforesaid submissions made by the learned counsel appearing for the respective parties and have perused the materials placed before this Court.

8. As has been pointed out by the learned counsel appearing for the petitioner / appellant, P.W.3 who is none other than the complainant, in his deposition has deposed stating that, he already met the appellant and opposed the

move of granting patta to and in favour of one Mayavan and subsequently he came to know that the patta was given in favour of the said Mayavan. Even though the suggestion in this regard, in the cross-examination, put forward by the defence side was denied by P.W.3, those aspects have to be gone into after full fledged hearing in the Appeal and in the present circumstances, for granting suspension of sentence, there is some force in the said contention raised by the petitioner / appellant, as prima facie, he is able to establish before this Court that, there has been a previous grudge between the petitioner / appellant and the P.W.3 complainant. Therefore that aspect has to be gone into fully at the time of final hearing, for which it will take some reasonable time for this Court, hence for the present, since the petitioner / appellant was the Government servant and his continuous incarceration may ultimately hamper all his prospects, if his case is accepted by the Court in the main appeal and therefore, taking into account all these aspects, this Court is inclined to accept the plea of the petitioner / appellant for suspending the sentence made under the impugned Judgment.

9. In the result, the sentence of imprisonment imposed by the Trial Court alone is suspended and the appellant/petitioner is directed to be enlarged on bail on the following condition:

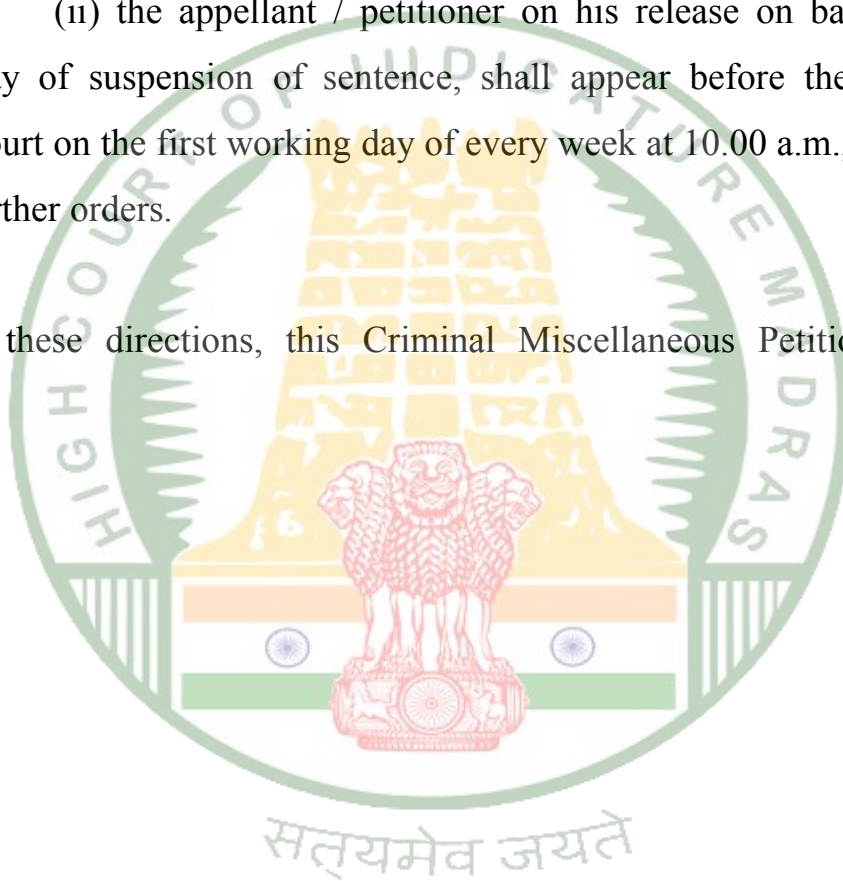
(i) the appellant/petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties each, out of which one shall be a blood relative, for a like sum to the satisfaction of the Judicial Magistrate, Villupuram.

(ii) the appellant / petitioner on his release on bail, by way of suspension of sentence, shall appear before the trial Court on the first working day of every week at 10.00 a.m., until further orders.

With these directions, this Criminal Miscellaneous Petition is ordered accordingly.

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15-05-2020



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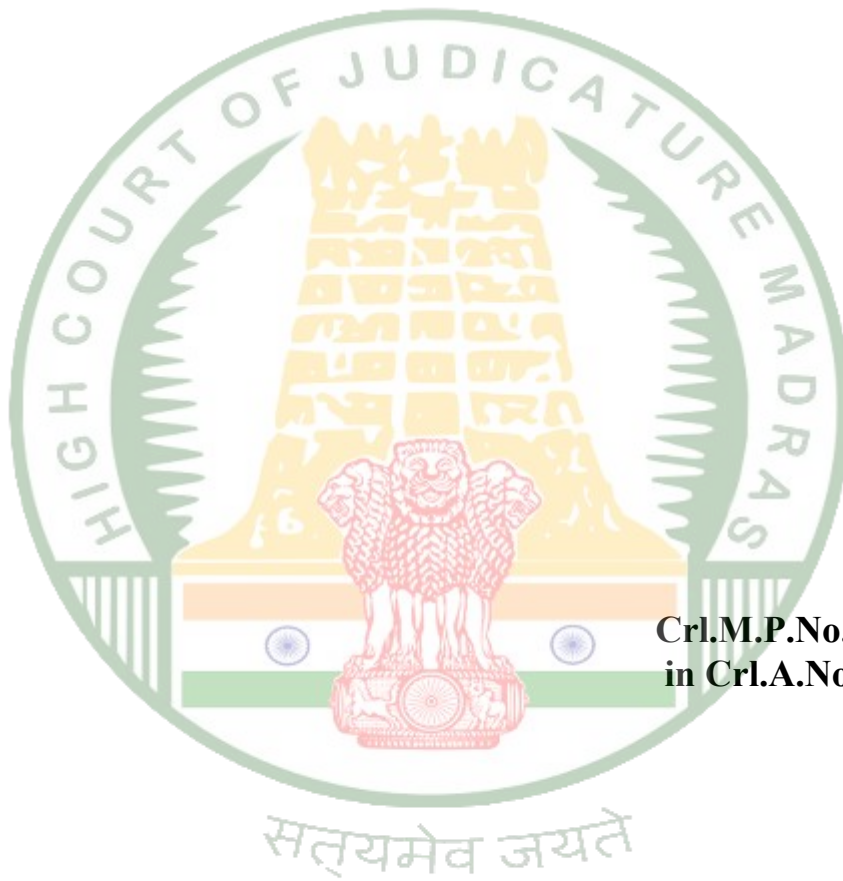
1. The Judicial Magistrate
Villupuram.
2. The Jail Superintendent
Central Prison, Cuddalore.
3. The Inspector of Police,
Vigilance & Anti Corruption,
Villupuram.
4. The Public Prosecutor
High Court of Madras,
Chennai.



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R.SURESH KUMAR, J

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