

Crl.M.P.No.3526 of 2020
in
Crl.A.No.198 of 2020

M.NIRMAL KUMAR, J.

This Criminal Appeal has been filed by the petitioner/A1 against the Judgment of conviction and sentence passed by the learned Special Court for the cases under Prevention of Corruption Act, dated 27.02.2020 made in C.C.No.21 of 2011. The conviction and sentence imposed by the trial court are as follows:-

<i>Petitioner /Accused</i>	<i>Conviction</i>	<i>Sentence</i>
Petitioner/A1	Convicted for the offence under Section 7, 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.	To undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1000/-, for the offence committed under Section 7 of Prevention of Corruption Act, 1988, in default to undergo simple imprisonment for three month for the offence under Section 13(2) read with 13(1) (d) of the Prevention of Corruption Act, to undergo two years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default to undergo rigorous imprisonment for a period of three months.

Total fine imposed against the petitioner is Rs.2,000/- (Rupees Two thousand only).

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

2.1. The petitioner/A1 who was employed as Joint Commissioner, Hindu Religious and Charitable Endowment, Chennai from 13.06.2008 to 26.06.2009 had demanded Rs.2,00,000/- from one Sekar- defacto-complainant was the Dharmagartha for the Arulmigu Aganda Thandu Mariamman Temple at Choolai to pass orders in his favour and for framing a scheme for the said temple, make provision in the scheme for appointment of Non-hereditary Trustees from and among the members of the Yadhava community at Choolai. When the adjudication proceedings was pending, the defacto-complainant met the petitioner in his office on 24.06.2009 and at that time, the petitioner demanded Rs.2,00,000/- for issuing orders in his favour. Again on 25.06.2009, the defacto-complainant met the Accused Officer in presence of Bench Clerk-A2. Thereafter, the demand was reduced to Rs.1,50,000/- and the defacto-complainant was directed to bring Rs.50,000/- as first installment on 26.06.2009, this petitioner directed the Bench Clerk-A2 to receive the same. In pursuance of the demand, the defacto-complainant on 26.06.2009 went to the office with the money waited for the petitioner at about 2.30 P.M. When the petitioner came along with the Bench Clerk-A2

the defacto-complainant and the official accompanying witness met the petitioner, the petitioner directed defacto-complainant to hand over the money to A2. The defacto-complainant handed over the money to A2 and thereafter the trap was conducted, money was recovered from the table drawer of A2. The Trial Court on conclusion of trial on the evidence and materials produced had convicted the petitioner as mentioned above.

2.2 The contention of the petitioner is that the petitioner was holding responsible position and he was also Quasi judicial authority to pass orders under HR&CE Act. The defacto-complainant had filed the petition under Section 64(1) of HR&CE Act to frame a scheme. The defacto-complainant coming to know that adverse orders to be passed and had framed a case against him. The respondent without conducting proper enquiry had laid a trap, no recovery from the petitioner had been made. Further, D.W.4-the Inspector, HR&CE Department clearly stated that the report was against the defacto-complainant and the defacto-complainant had every reason to implicate the petitioner. Further, the petitioner had taken steps against the defacto-complainant for breaking open hyundial of the temple and taking away the hyundial offerings. The defacto-complainant is a dubious person of character used this case to obtain a

scheme as per his dictum. The Trial Court failed to consider these aspects. Further, there is no evidence to show that the petitioner made any demand, which is sin qua non.

3. The learned counsel for the petitioner further submitted that the petitioner has already paid the fine amount of Rs.2,000/- (Rupees Fifty three thousand only) 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.

4. The learned Additional Public Prosecutor (Crl.Side) submits that in this case the demand of Rs.2,00,000/- was made initially for passing orders in a scheme of the temple. Thereafter, the demand was reduced to Rs.1,50,000/- and further Rs.50,000/- was received as advance and the balance to be paid after orders to be pronounced. A2 being a Bench Clerk is incharge of the Quasi judicial proceedings. The petitioner had called his Bench Clerk-A2 directed him to receive the money ensuring defacto-complainant would be given favourable orders. The

initial amount of Rs.50,000/- was handed over to A2 who received the same and kept in his drawer. The accompanying witness had observed the same. Thereafter, the T.L.O had entered the office and recovered the trap amount. After investigation charge sheet came to be filed, the Trial Court considering the evidence and materials had rightly convicted the petitioner. The petitioner was on bail during investigation and trial. The sentence is suspended till 11.03.3020.

5. 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.

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 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.

7. Accordingly, the Substantive Sentence of Imprisonment imposed on the petitioner alone is suspended till the disposal of the appeal and the petitioner/A1 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, Special Court for the cases under Prevention of Corruption Act, Chennai.

8. 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.

18.03.2020
(2/2)

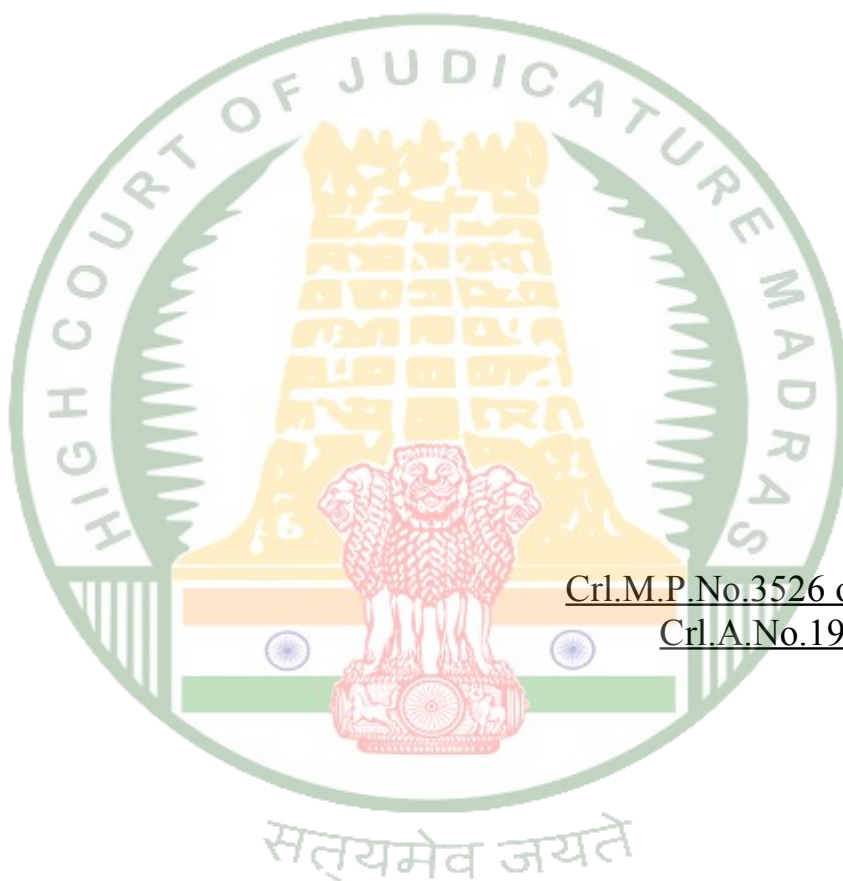
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Note: Issue order copy on 18.03.2020

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M.NIRMAL KUMAR,J.,

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