IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.05.2020

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

Crl.MP.No.3957 of 2020
in Crl.A.No.230 of 2020

D.Palani .... Petitioner /Appellant / Accused

Vs

State, Rep. by
The Inspector of Police
Vigilance and Anti-Corruption (V&Ac)
Villupuram. ... Respondent / Respondent

Prayer :-Criminal Miscellaneous Petition filed under Section 389 (1) Cr.P.C., to suspend the sentence imposed against the petitioner Vide judgment dated 17.03.2020 made in Special Case No.64 of 2014 by the learned Special Court for Prevention of Corruption Act Cases, Villupuram, by convicting and sentencing the appellant to undergo 3 years rigorous imprisonment and shall pay a fine of Rs.5,000/-, in default to undergo 3 months simple imprisonment under Section 12 of Prevention of Corruption Act, 1988.

For Petitioner : Mr.P.Palaninathan

For Respondent : Mr.R.Ravichandran
Government Advocate (Crl. Side)

ORDER

The petitioner herein was arrayed as A2 in the Special Case No.64/2014 on the file of the Special Court for Prevention of Corruption Act Cases, Villupuram. He faced charges for offence under Section 12 of the Prevention of Corruption Act, 1988. Vide its judgment dated 17.03.2020, the learned trial Judge found the petitioner guilty of the charges framed against him, and sentenced him to undergo three years R/I rigorous imprisonment, and imposed on him a fine of Rs.5,000/- and directed him to undergo simple imprisonment for three months in the eventuality of the petitioner defaulting in paying the fine amount. The petitioner was granted suspension of sentence by the trial Court. The petitioner herein now files a petition seeking suspension of sentence before this Court.

2. The case of the prosecution was that a certain Ramesh, who was arrayed as A1 before the trial Court, was working as Commercial Inspector in the Office of Junior Engineer (O&M), TNEB, that in connection with a request for providing Electricity Power connection to P.W.3, the defacto complainant, A1 was alleged to have demanded a bribe of Rs.8,000/-, that on 11.03.2011 at about 15.30 hrs., P.W.3, along with a shadow witness in P.W.2 went to the office of A1. Pursuant to the demand made by A1, P.W.3 informed him that the latter was ready with 50% of the bribe amount, i.e., Rs.4,000/-. On the direction of A1, the said bribe amount was handed over to A2. Then, on the intimation given to the Investigating Agency, the accused were caught red handed. It was a case of the Investigating Agency laying a trap for the accused persons. Believing the evidence of P.W.2 and P.W.3 along with the evidence of the Investigating Agency, the trial Court found both the accused persons guilty of the charges framed against them.

3. The learned counsel for the petitioner/appellant argued that the petitioner, even as per the prosecution case, did not make any demand for the bribe amount, nor was he in the know of the intention of A1. When A1 directed A2 to receive the amount, the latter had merely received the amount. In this context, there is a major discrepancy in the evidence of P.W.3 as to how or where the money was handed over to A2. Further it is no case of the prosecution that A2 was benefited by the transaction. Thirdly, A2 was only a contract labourer, and he is not even attached to the office of A1. Therefore, mere receipt of bribe amount intended for A1 by A2 without any evidence to indicate that the money was received by him on demand as bribe, either for himself or for A1, will not go to constitute an offence within the meaning of Prevention of Corruption Act.

4. Opposing the petition, Mr.R.Ravichandran, the learned Government Advocate submitted that A2 had a prominent role in the commission of crime and hence, he was implicated under Section 12 of the Prevention of Corruption Act.

5. After appreciating the rival submissions and after carefully perusing the judgment of the trial Court, the nature of evidence relied on by it, this Court prima facie considers that pending appeal, the substantive sentence of imprisonment imposed on the petitioner alone can be suspended. Hence, the petitioner herein is directed to be enlarged on bail on the following conditions:-

a) The Petitioner is ordered to be released on bail, on he executing 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 Prevention of Corruption Act Cases, Villupuram, within a period of one month from the date of receipt of a copy of this order.

b) The Petitioner and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the official concerned may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities;

c) The Petitioner is directed to appear before the trial Court on the first Monday of every month starting June 2020, at 10.30 a.m., until the disposal of the criminal appeal, However, his personal appearance before the trial Court is subject to such directions or instructions of the Government regarding movement of persons during the ongoing COVID-19 crisis.

d) On the failure of any of the above conditions by the Petitioner/Accused, it is open to the trial Court to commit the Petitioner / Accused into custody for undergoing the sentence.

This petition is ordered accordingly.

-sd/-
20/05/2020

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 COURT FOR
PREVENTION OF CORRUPTION ACT CASES,
VILLUPURAM.

2 THE PUBLIC PROSECUTOR
HIGH COURT OF MADRAS, CHENNAI-600 104.

3 THE INSPECTOR OF POLICE,
VIGILANCE AND ANTI-CORRUPTION,
VILLUPURAM

C.C. to M/S. P.PALANINATHAN Advocate on payment of necessary charges

Order

in
CRL MP.3957/2020
in
CRL A.230/2020

Date :20/05/2020

From 7.2.2001 the Registry is issuing certified copies of the BAIL/Anti.BAIL Orders in this format

MK:29/06/2020