



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Thursday, the Twenty Third day of January Two Thousand Twenty

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PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL MP(MD) No.490 of 2020

IN

CRL A(MD) No.40 of 2020

MOHAMMED FASULUDEEN

... PETITIONER/APPELLANT

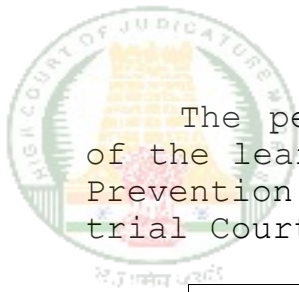
Vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION P.S.,
TIRUNELVELI, TIRUNELVELI DISTRICT
(CRIME NO.04 OF 2006)

... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to Suspend the Sentence imposed upon the petitioner in Special Case No.25/2014 on the file of the learned Special Judge, Special Court for Trial of Cases under Prevention of Corruption Act, Tirunelveli, Tirunelveli District by Judgment dated 07.01.2020 pending disposal of the main Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.A.THIRUVADI KUMAR, Advocate for the petitioner and of Mr.K.Suyambulinga Bharathi, Government Advocate(Criminal side) for the Respondent, the court made the following order:-



The petitioner/accused in Spl.Case No.25 of 2014, on the file of the learned Special Judge, Special Court for Trial of Cases under Prevention of Corruption Act, Tirunelveli, was found guilty by the trial Court convicted and sentenced as follows:

Penal Provision	Punishment
7 of Prevention of Corruption Act	To undergo 1 year of Simple imprisonment and fine amount of Rs.5,000/- in default 6 months simple imprisonment.
13(2) r/w 13(1) (d) (iii) of Prevention of Corruption Act.	To undergo 1 year of Simple imprisonment and fine amount of Rs.5,000/- in default 6 months simple imprisonment.

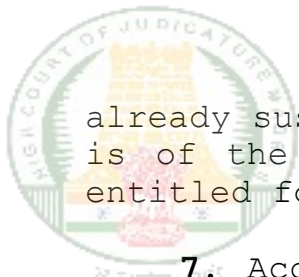
2. The sentences of imprisonment was ordered to run concurrently. In order to suspend the sentence, the present Criminal Miscellaneous Petition in Crl.MP.(MD)No.490 of 2020 has been filed.

3. The case of the prosecution is that the petitioner was working as copyist, Record Section, District Collector Office, Tirunelveli from 05.05.1971 to 06.06.2006. On 05.05.2006 at about 15.00 hrs at the District Collector's Office, Tirunelveli the accused demanded a sum of Rs.500/- as gratification other than legal remuneration from the defacto complainant for furnishing copies of the 'A' Register and Fair land Register of the ancestral land, which belongs to the wife of the defacto complainant. Hence, a case has been registered.

4. The learned counsel for the petitioner would submit that the evidence of P.W.3 sustained the case of the prosecution. P.W.3 does not corroborate the testimony of P.W.2 as regards the demand. During the cross examination, P.W.2 admits that there are two or three persons in the record Section of the collectorate who had demanded illegal gratification, which was informed to P.W.20. Further, there is no material that the demand was made by the petitioner. P.W.3 the accompanying witness was not produced for cross examination. Hence his witness is not complete, cannot be relied. On the contrary, the trial Court has placed heavy reliance on the evidence of P.W.3 and convicted the petitioner.

5. Heard the learned Government Advocate (Criminal side) appearing for the respondent.

6. Considering the rival submissions made on either side, there seems to be arguable points in this case. Further the appeal is not likely to be taken up for final disposal during the immediate period. Further, considering the fact that the Lower Court had



already suspended the period of sentence till 03.02.2020, this Court is of the considered view that this petitioner / accused is also entitled for the relief of grant of suspension of sentence.

7. Accordingly, the substantive sentence of imprisonment alone is suspended pending disposal of the criminal appeal and the petitioner / accused is ordered to be enlarged on bail on executing a bond for Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Special Judge for trial of Cases under Prevention of Corruption Act, Tirunelveli, and on further condition that the petitioner/ accused shall appear before the said Court at 10.30 a.m., on first working day of every month until further orders.

sd/-
23/01/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE SPECIAL JUDGE,
SPECIAL COURT FOR TRIAL OF CASES UNDER
PREVENTION OF CORRUPTION ACT,
TIRUNELVELI, TIRUNELVELI DISTRICT.

2 THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION POLICE STATION,
TIRUNELVELI, TIRUNELVELI DISTRICT

3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.A.THIRUVADI KUMAR, Advocate (SR-1312 dated 23/01/2020)

ORDER
IN
CRL MP(MD) No.490 of 2020
IN
CRL A(MD) No.40 of 2020
Date :23/01/2020

DAS
ES/PN/SAR 2/23.01.2020/3P/5C

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