



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Eleventh day of February Two Thousand Twenty

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL MP(MD) No.1186 of 2020
IN
CRL A(MD) No.68 of 2020

1.P.M.PALANICHAMY
(DIED IN PENDING TRIAL AND
CHARGE ABATED)

...ACCUSED NO.1

2.N.KOTTAIRAJ

... PETITIONER/APPELLANT/
ACCUSED No.2

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
VIGILANCE AND ANTICORRUPTION,
MADURAI DETACHMENT.
CRIME NO.02/2004.

... RESPONDENT/ RESPONDENT/
COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the execution of sentence by granting bail in S.C.No.52/2011 on the file of the Special Court for Trial of Prevention of Corruption Act Cases, Madurai, Madurai District, dated 28.01.2020 till the disposal of Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.K.PRABHU, Advocate for the petitioners and of Mr.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondent, while admitting the CRL A, the court made the following order:-

The petitioner/Accused No.2 in S.C.No.52 of 2011, on the file of the Special Court for Trial of Prevention of Corruption Act Cases, Madurai, was found guilty by the trial Court convicted and sentenced as follows:



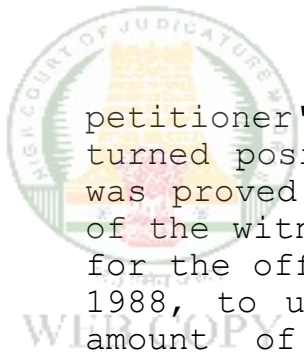
Penal Provision	Punishment
Section 7 of the Prevention of Corruption Act, 1988	To undergo one year rigorous imprisonment, and to pay a fine amount of Rs.1,000/- in default to undergo two months simple imprisonment.
Section 13 (2) r/w 13 (1) (d) of the Prevention of Corruption Act, 1988	To undergo one year rigorous imprisonment, and to pay a fine amount of Rs.1,000/- in default to undergo two months simple imprisonment.

2. The sentence of imprisonment was ordered to run concurrently. In order to suspend the sentence, the present Criminal Miscellaneous Petition in Crl.MP.(MD)No.1186 of 2020 has been filed.

3. The case of the prosecution is that the petitioner was working as an Assistant Commercial Tax Officer at Thirupparankundram Assesment Circle, Commercial Tax Complex, Madurai. P.W.2 viz., R.Nanthagopal, decided to run a recognized TVS Service Centre at Madurai. To get "Registration Certificate" for his partnership business, he submitted an application in the petitioner's office. At that time, the Accused Nos.1 and 2 demanded Rs.5,000 as illegal gratification for issuing the above said certificate from P.W.1 / de facto complainant. The Accused received the bribe on 04.03.2004.

4. The contention of the petitioner is that the petitioner is working as Assistant Commercial Tax Officer in Thirupparankundram Assesment Circle, Commercial Tax Complex, Madurai. The Accused Nos.1 and 2 had conducted inspection with regard to the place of business on 19.02.2004 and there is no necessary for the petitioner to ask such demand. The demand has been made by the deceased / Accused No.1. Further, as per the trap proceedings, it is seen that the trap has been planned and formulated on 04.03.2004, wherein, it has been clearly mentioned that P.W.2 was instructed to hand over the trap amount only to the Accused No.1 and not to this petitioner. Further on the date of the trap, the deceased / accused No.1 was taking rest in his room and hence, the decoy could not meet him and money was given to the petitioner. He would further submit that under the guise of tax turnover, the entire trap has been foisted against him. The said fact has not been considered by the trial Court.

5. The learned Additional Public Prosecutor appearing for the respondent submitted that the amount was handed over to the petitioner and the petitioner received and counted the same and kept into his pocket. Thereafter, money was recovered from the



petitioner's pocket and phenolphthalein test was conducted and it turned positive. The demand and acceptance made by the petitioner was proved. The trial Court, on a proper analysis of the evidence of the witnesses and documents, had rightly convicted the petitioner for the offence under Section 7 of the Prevention of Corruption Act, 1988, to undergo one year rigorous imprisonment and to pay a fine amount of Rs.1,000/- in default to undergo two months simple imprisonment and for the offence under Section 13 (2) r/w 13 (1) (d) of the Prevention of Corruption Act, 1988, to undergo one year rigorous imprisonment and to pay a fine amount of Rs.1,000/- in default to undergo two months simple imprisonment, which need not be suspended.

6. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

7. Considering the rival submissions made on either side and considering the fact that the trial Court had convicted the petitioner and there are arguable points, the petitioner was on bail during investigation and during trial, further, the fine amount has already been paid by the petitioner and the trial Court had already suspended the period of sentence till 28.02.2020, it is understood that it will take some time to take up Criminal Appeal for final hearing, hence, this Court is of the considered view that this petitioner / Accused No.2 is entitled for the relief of grant of suspension of sentence.

8. Accordingly, the substantive sentence of imprisonment alone is suspended pending disposal of the Criminal Appeal and the petitioner / Accused No.2 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 Court for trial of PC Act Cases, Madurai and on further condition that the petitioner/ accused No.2 shall appear before the said Court at 10.30 a.m., on the first working day of English calendar month until further orders.

sd/-
11/02/2020

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



TO

1.THE SPECIAL COURT FOR TRIAL OF
PREVENTION OF CORRUPTION ACT CASES,
MADURAI, MADURAI DISTRICT

2.THE INSPECTOR OF POLICE
VIGILANCE AND ANTICORRUPTION,
MADURAI DETACHMENT.

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

+1. C.C. to M/S.K.PRABHU Advocate SR.No.2873

ORDER
IN
CRL MP (MD) No.1186 of 2020
IN
CRL A (MD) No.68 of 2020
Date :11/02/2020

TSG
TK/VR/SAR.1/11.02.2020/4P/5C