



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

Monday, the Seventeenth day of February Two Thousand Twenty
PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL MP(MD) No.1411 of 2020
IN CRL A(MD) No.83 of 2020

M.SUBRAMANI

... PETITIONER/ APPELLANT/
ACCUSED

Vs

STATE REP.BY
THE DEPUTY SUPERINTENDENT OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
THENI, THENI DISTRICT.
(IN CRIME NO.2/2008)

... 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 sentence imposed on the petitioner / appellant / accused in Spl.Case No.04/2014 dated 20.01.2020 on the file of the Special Court for Vigilance and Anti-Corruption Cases and Chief Judicial Magistrate, Theni and enlarge him on bail till the disposal of the appeal.

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

The petitioner/accused in Spl.Case No.4 of 2014, on the file of the learned Special Court for Vigilance and Anti-Corruption Cases and Chief Judicial Magistrate, Theni, was found guilty by the trial Court convicted and sentenced as follows:

Penal Provision	Punishment
7 of Prevention of Corruption Act	To undergo 2 years of Simple imprisonment and fine amount of Rs.5,000/- in default 3 months simple imprisonment.
13(2) r/w 13(1) (d) of Prevention of Corruption Act.	To undergo 2 years of Simple imprisonment and fine amount of Rs.5,000/- in default 3 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.1411 of 2020 has been filed.

3. The case of the prosecution is that the petitioner was working as Village Administrative Officer at Andipatti Taluk, Kandamanur Village, Theni District, from 16.09.2004 to 01.04.2008. On 20.03.2008, the defacto complainant approached the accused for getting name change certificate. In this regard, the accused demanded a sum of Rs.5000/- as bribe. On 26.03.2008, the defacto complainant along with his son, namely, Murugan met the accused and after negotiation, the amount was reduced to Rs.2,000/-. The petitioner received the bribe amount of Rs.2000/- and committed offences punishable under Sections 7 and 13(2) r/w 13 (1) (d) of the Prevention of Corruption Act, 1988.

4. The learned counsel for the petitioner would submit that on 20.03.2008, the defacto complainant/P.W.2 approached the petitioner/accused, seeking name change certificate and as well as the legal heir certificate. On the same day, the name change certificate has been given, thereby enabling the defacto complainant/P.W.2 to get the LIC amount of his son. He would further submit that for getting legal heir certificate on 24.03.2008, the accused processed the same. If such being the case, there is no necessity for the petitioner to make a demand on 26.03.2008. He would also submit that when the demand was made on 26.03.2008, the son of P.W.2, who accompanied him earlier, has not been examined as witness. He would further submit that money has been recovered from the table of the petitioner and according to the petitioner, money was placed to trap and he had never received any such amount. When P.W.10/ TLO entered into the room, the petitioner was forced to handle the amount.

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 on his table. Thereafter, money was recovered on the petitioner's table 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 two years rigorous imprisonment and to pay a fine amount of Rs.5,000/- in default to undergo three 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 two years rigorous imprisonment and to pay a fine amount of Rs.5,000/- in default to undergo three 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 and further, the fine amount has already been paid by the petitioner and the trial Court had already suspended the period of sentence till 20.02.2020, 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 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 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 Vigilance and Anti-Corruption Cases and Chief Judicial Magistrate, Theni, 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/-
17/02/2020

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

TO

1. THE SPECIAL JUDGE FOR VIGILANCE AND ANTI-CORRUPTION CASES AND CHIEF JUDICIAL MAGISTRATE, THENI.
2. THE DEPUTY SUPERINTENDENT OF POLICE, VIGILANCE AND ANTI CORRUPTION, THENI, THENI DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.R.VENKATESHWARAN, Advocate (SR-3248[I] dated 17/02/2020

ORDER IN
CRL MP(MD) No.1411 of 2020
IN
CRL A(MD) No.83 of 2020
Date :17/02/2020

MS/PN/SAR-3/17.02.2020/3P.5C

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