



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

Tuesday, the Twenty Fifth day of February Two Thousand Twenty

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL MP(MD) No.1792 of 2020
IN
CRL A(MD) No.101 of 2020

K.KALUVATHAVAN

... PETITIONER/APELLANT/
SINGLE ACCUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
VIGILANCE AND ANTI-CORRUPTION,
MADURAI.
CRIME NO.10/2020

... 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 in Special Case No.7/2012 by the Special Court for Trial of Prevention of Corruption Act Cases, Madurai dated 17.02.2020 and enlarge the petitioner on bail 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 Mr.S.RAVI, Advocate for the petitioner and of Mr.K.SUYAMBULINGA BHARATHI Government Advocate (Crl. Side) on behalf of the Respondent, while admitting the CRL A, the court made the following order:-

The petitioner/ Sole Accused in Special Case No.07 of 2012, on the file of the Special Court for Trial of Prevention of Corruption Act Cases, Madurai, dated 17.02.2020, 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 two years rigorous imprisonment, and to pay a fine amount of Rs.1,000/- in default to undergo two months simple imprisonment
---	---

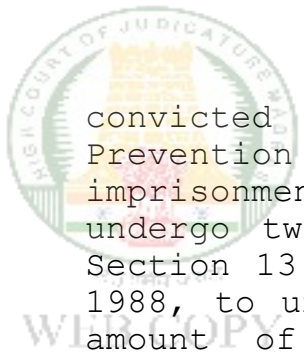
WEB COPY

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.1792 of 2020 has been filed.

3. The case of the prosecution is that the petitioner who worked as a Village Administrative Officer, Vedarpuliyankulam Village, Thirupparankundram South Taluk, Madurai, during the period from 01.02.2008 to 19.04.2010 was a Public Servant, in term of 2 (c) of PC Act. On 12.04.2010, at about 08.30 a.m., the petitioner demanded a sum of Rs.5,00,000/- from P.W.2 / decoy witness to get patta and on bargaining, it was reduced to Rs.3,00,000/- and the accused obtained Rs.10,000/- as advance for the total amount demanded. On 19.04.2010, at about 01.30 p.m., the accused received a sum of Rs.50,000/- and caught red handed.

4. The contention of the petitioner is that the Lower Court has heavily relied upon the evidence of P.W.2 / decoy witness, who was not appeared for cross-examination and subsequently died. Hence, this witness cannot be relied upon. The other witness is P.W.5, who is said to have handed over a sum of Rs.10,000/- on an earlier occasion on behalf of Arockiasamy and the said Arockiasamy has not been examined in this case. Further submitted that there have been delay in forwarding the complaint and First Information to the Court. Further submitted that the call details of the petitioner with the others have been attempted to be proved through P.W.10-Nodal Officer. But, there is no 65-B Certificate. Hence, this evidence cannot be acted upon. There also seems to be some discrepancies with regard to the evidence of P.W.2 and P.W.3 as regards the topography of the area. P.W.3 and P.W.11 in their evidences stated that only the ground floor is available in the house of the accused. But P.W.12 and P.W.13 admitted that there was a first floor and the house owner is residing in the first floor. The said house owner has not been examined in this case.

5. The learned Government Advocate (Crl. side) appearing for the respondent submitted that the petitioner was working as a Village Administrative Officer, Vedarpuliyankulam Village, Thirupparankundram South Taluk, Madurai, during the period from 01.02.2008 to 19.04.2010. On 19.04.2010, at about 01.30 p.m., the accused received a sum of Rs.50,000/- as illegal gratification and committed the offences under Sections 7 of the Prevention of Corruption Act, 1988 and 13 (2) r/w 13 (1) (d) of the Prevention of Corruption Act, 1988. 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 two years 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 Government Advocate (Crl. side) 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 17.03.2020, 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, granted bail pending disposal of the Criminal Appeal and the petitioner / sole Accused is ordered to be released 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 Prevention of Corruption Act Cases, Madurai and on further condition that the petitioner/ sole Accused shall appear before the said Court at 10.30 a.m., on the first working day of English calendar month until further orders.

sd/-
25/02/2020

/ TRUE COPY /

/ /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.

2. THE INSPECTOR OF POLICE
VIGILANCE AND ANTI-CORRUPTION, MADURAI.

<https://hcservices.ecourts.gov.in/hcservices/>



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

+1. C.C. to M/S.S.RAVI Advocate SR.No.4008

WEB COPY

ORDER

IN

CRL MP (MD) No.1792 of 2020

IN

CRL A (MD) No.101 of 2020

Date :25/02/2020

TSG

TK/PN/SAR.1/25.02.2020/4P/5C