BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Thursday, the Twenty Seventh day of February Two Thousand Twenty

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL MP(MD) No.2002 of 2020
IN
CRL A(MD) No.109 of 2020

V.RAMAKRISHNAN ... PETITIONER/APPELLANT/ SOLE ACCUSED/SOLE ACCUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
DINDIGUL.
CRIME NO.3 OF 2011 ... RESPONDENT/RESPONDENT/ COMPLAINANT/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 of one year rigorous imprisonment respectively for the offences U/s 7 and section 13(2) r/2, 13(1) (d) of the Prevention of corruption Act, 1988 imposed against me in Special case No.18 of 2014 on the file of the Chief Judicial Magistrate, Dindigul (The Special Judge for Trial of Cases Under Prevention of Corruption Act) by Judgment dated 07.02.2020 pending disposal of the above Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.J.LAWRANCE, 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.18 of 2014, on the file of the learned Chief Judicial Magistrate, Dindigul, (The Special Judge for Trial of Cases under Prevention of Corruption Act), 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/- indefault to undergo three months rigorous 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/- indefault to undergo three months rigorous 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.2002 of 2020 has been filed.

3. The case of the prosecution is that the petitioner who worked as a Taluk Supply Officer at Natham Taluk, Dindigul District on 24.02.2011, was roped in a criminal case in Crime No.3 of 2011, on the file of the Inspector of Police, Vigilance and Anti Corruption, Dindigul, for the offence under Sections 7 and 13 (2) r/w 13 (1) (d) of the Prevention of Corruption Act, 1988 on the complaint given by one P.W.2 viz, A.Gandikumar. On 22.02.2011, at about 11.00 a.m., the petitioner demanded a sum of Rs.15,000/- from P.W.2 / decoy witness, who is working as a Junior Assistant in the petitioner's office, for changing of address in his family ration card and on bargaining, it was reduced to Rs.10,000/-. On 24.02.2011, at about 16.30 hours, the accused received a sum of Rs.10,000/- as illegal gratification and caught red handed.

4. The contention of the petitioner is that the sanction order viz., Ex.P.1 does not reflect the satisfaction arrived at by the Sanctioning Authority. Further, there is no evidence to show that there was prior demand of bribe on 22.02.2011 or 23.02.2011. The petitioner and P.W.2 / Decoy witness were working in the same office and during that period, P.W.2 had given some amount from the petitioner, which was not repaid by P.W.2. Hence, there was some misunderstanding between both of them. Due to which, a false complaint has been given. As far as application for changing of residence address in the ration card, a recommendation has already been made on the date of receipt of the the application and sent the same to the Ration Shop earlier i.e., one month prior to this incident and another petition was also filed by P.W.2 for which the change of address had been duly carried out and there is no reason arisen for the petitioner to make a demand as alleged by P.W.2. Further, the place where the trap amount has been handed over through recovery mahazar is contrary to the evidence of P.W.2. As per the evidence, the trap money was handed over near the stair case and in the recovery mahazar it shows that the amount was received from inside of the office room. The evidence of P.W.3 does not corroborate the evidence of P.W.2 on the material aspects. P.W.3 is not aware of the actual handing over of the trap money, which was received by the petitioner. With an ulterior motive, P.W.2 lodged a false complaint against the petitioner. The Trap Laying Officer in this case has not conducted proper preliminary enquiry to find out the motive and how the petitioner is falsely implicated in this case.

5. The learned Government Advocate (Crl. side) appearing for the respondent submitted that the petitioner was working as a Taluk Supply Officer. On 24.02.2011, at about 16.30 hours, the accused received a sum of Rs.10,000/- 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/- indefault to undergo three months rigorous 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 0Rs.1,000/- indefault to undergo three months rigorous 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, 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 Chief Judicial Magistrate, Dindigul (The Special Judge for trial of Cases under Prevention of Corruption Act) 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 calender month until further orders.

sd/-
27/02/2020

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

TO

1.THE CHIEF JUDICIAL MAGISTRATE,
(THE SPECIAL JUDGE FOR TRIAL OF CASES UNDER PREVENTION OF CORRUPTION ACT), DINDIGUL.

2.THE INSPECTOR OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
DINDIGUL.

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

+1. C.C. to M/S.J.LAWRANCE Advocate SR.No.4190

ORDER
IN
CRL MP(MD) No.2002 of 2020
IN
CRL A(MD) No.109 of 2020
Date :27/02/2020

tsg
TK/VR/SAR.3/27.02.2020/4P/5C