

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2021

CORAM

THE HONOURABLE Mr. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.M.P.No.209 of 2021

in Cr1.A.No.11 of 2021

V.Gurubatham ... Petitioner/Appellant
S/o.Vedhasalam,
Sub-Registrar, Thirukkanur,
Puducherry

-Vs.-

State represented by ... Respondent
Inspector of Police,
SPEL CBI-ACB, Chennai
Through Public Prosecutor
(Cr.No.RC.20/A/2008/CBI/ACB/Chennai)

Prayer: Criminal Miscellaneous Petition filed under Section 389(1) of Criminal Procedure Code, praying to suspend the sentence imposed by the Special Judge Puducherry in Spl.Calender. Case No.1/2020 dated 20.11.2020, wherein the accused A-1 was convicted for the offences under Section 13(2) r/w 13(1)(e) of Prevention of Corruption Act 1988 and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.10,000/- (Rupees Ten Thousand only) in default to under Rigorous Imprisonment for three months, pending disposal of the above Criminal Appeal.

For Petitioner : Mr.A.N.Rajan
For Mr.A.Tamilvanan

For Respondent : Mr.K.Srinivasan
Special Public Prosecutor

ORDER

(The case has been heard through video conference)

This Criminal Miscellaneous Petition has been filed by the Petitioner /Accused, seeking suspension of sentence of Imprisonment, imposed by the Judgment, dated 20.11.2020 in Spl.Calender case No.1/2020 by the Special Judge Puducherry, pending disposal of the Criminal Appeal.

2. The learned counsel for the petitioner/appellant would submit that the trial Court without taking into consideration the

materials on record had erroneously convicted the appellant/petitioner. The trial Court failed to see that the prosecution has not discharged their initial burden with regard to items 1 and 2 of A-statement to substantiate the fact that the house mentioned in it was constructed by the accused out of his income by spending Rs.7,00,000/- Further, the trial Court failed to note of the fact the value of the house which was purchased during the year 1997 and was assessed during the year 2008 and the same is highly illegal. Further, the statement prepared by the respondent do not reflect the correct value of the assets and the prosecution evidence is not sufficient to prove the charges of the accused and when the trial Court has rendered the findings that the proper procedure in respect search and seizure having not been followed the petitioner/accused ought to have been acquitted from the charges. The learned counsel would submit that there is several arguable points in this appeal and that there is every chance that the petitioner/appellant will succeed in the appeal. Further, submit that the appellant/petitioner is aged about 70 years and that the trial Court has also suspended the sentence of imprisonment till 18.01.2021. Thereby he would pray to suspend the substantive sentence imposed against the petitioner/appellant may be suspended.

3. The learned Special Public Prosecutor would objections stating that the trial Court has rightly convicted the appellant/petitioner.

4. This court heard the submissions made by the learned counsel on either side and also perused the materials placed on record.

5. Taking into consideration the submissions made by the learned counsels and also considering that there are arguable points available in the appeal, this Court is inclined to suspend the substantive sentence of imprisonment alone subject to the following conditions that :-

- i. The Petitioner shall surrender before the trial Court within two weeks and execute a bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)**, with two sureties, each for a like sum to the satisfaction of the Special Judge at Puducherry.
- ii. The Petitioner shall report before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

-sd/-

11/01/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

TO

1 THE SPECIAL JUDGE,
PUDUCHERRY.

2 THE INSPECTOR OF POLICE,
SPE CBI - ACB, CHENNAI.
THROUGH PUBLIC PROSECUTOR
CR.NO.RC.20/A/2008/CBI/ACB/CHENNAI)

3 THE SPECIAL PUBLIC PROSECUTOR
PUDUCHERRY.

+1 C.C. to M/S.A.TAMILVANAN Advocate on payment of necessary
charges SR.NO.381

Order

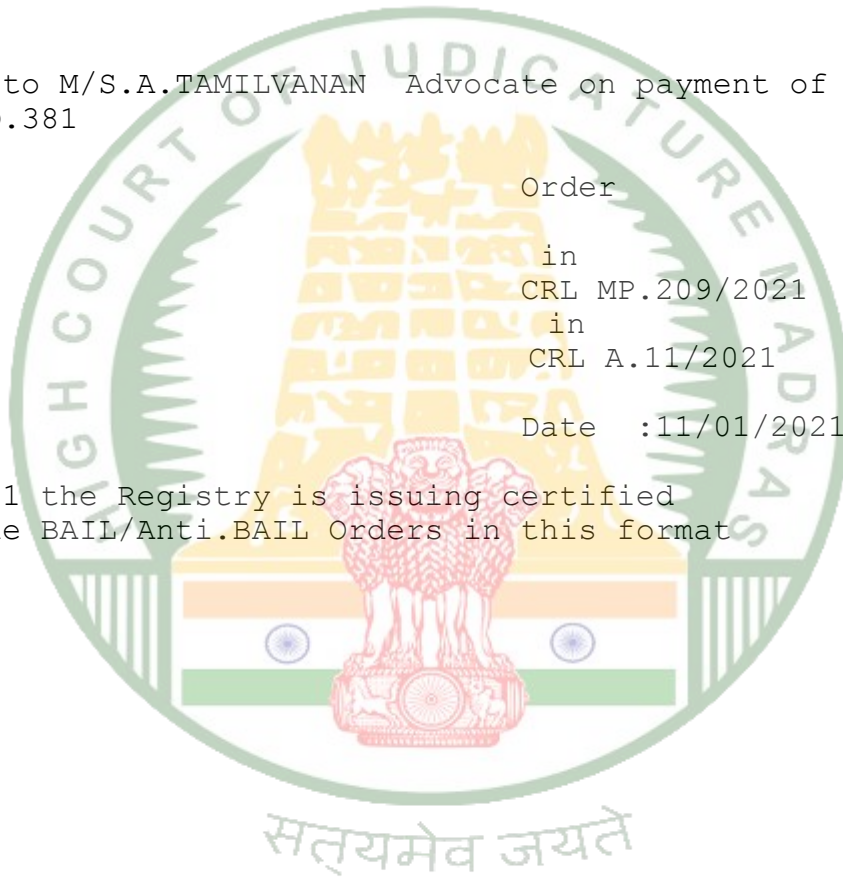
in
CRL MP.209/2021

in
CRL A.11/2021

Date :11/01/2021

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