IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Eighth day of February Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL MISCELLANEOUS PETITION No.997 of 2021

IN CRL.A.NO.45 of 2021

UMA MAHESWARI [PETITIONER/APPELLANT]

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
CBI/ACB/CHENNAI. [RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To suspend the sentence passed in C.C.No.2 of 2008 dated 20.01.2021 on the file of 2nd Additional District Court for CBI cases, Coimbatore pending disposal of the Crl.A.No.45 of 2021.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.S.RAMACHANDRAN, Advocate for the petitioner and of MR.K.SRINIVASAN, Special Public Prosecutor for CBI-cases, on behalf of the Respondent, the court made the following order:-

This petition has been filed by the petitioner/appellant to suspend the sentence passed in C.C.No.2 of 2008 dated 20.01.2021 on the file of II Additional District Court for C.B.I. Cases, Coimbatore, pending disposal of the Criminal Appeal.

2. The petitioner/appellant herein is the accused in C.C.No.2 of 2008 on the file of II Additional District Court for C.B.I. Cases, Coimbatore, and she was found guilty of the offences under Sections 120-B read with 409, 420, 467, 468, 471 and 477-A IPC and Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 and for the substantive offences punishable under Sections 409, 420, 468 read with 471 and 477-A IPC and Section 13(2) read with 13(1) (c) and 13(2) read with 13(1) (d) of the Prevention of Corruption Act, 1988 and has been convicted and sentenced as under:

S.No.	Conviction	Sentence
1.	U/s. 120-B read with 409, 420, 467, 468, 471 and 477-A IPC and Section 13(2) read with 13(1) (d) of the Prevention of Corruption Act, 1988	3 years R.I. and fine of Rs.30,000/- in default to undergo S.I for Six Months .
2.	U/s. 409, 420, 468 read with 471 and 477-A IPC and Section 13(2) read with 13(1) (c) and 13(2) read with 13(1) (d) of the Prevention of Corruption Act, 1988	3 years R.I. and fine of Rs.30,000/- in default to undergo S.I. for Six Months .
The Sentences were ordered to run concurrently		

Aggrieved over the same, the petitioner/appellant has preferred this appeal and also filed the petition for suspension of sentence.

3. The case of the prosecution is that the petitioner/appellant while working as a Forex Officer in the Vijaya Bank, Tirupur Branch, had conspired with the other accused and by fabrication of documents and tampering of records had transferred accounts of several customers without their knowledge. After the trial, the Court below found the accused/petitioner guilty of the offences under Sections 120-B read with 409, 420, 467, 468, 471 and 477-A IPC and Section 13 (2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 and for the substantive offences publishable under Sections 409, 420, 468 read with 471 and 477-A IPC and Section 13(2) read with 13(1) (c) and 13(2) read with 13(1) (d) of the Prevention of Corruption Act, 1988.

4. The learned counsel for the Appellant would submit that the the petitioner along with other accused was found guilty for the offences as stated above. He would submit that the petitioner was working as a Forex Officer in Vijaya Bank, Tirupur Branch at the relevant time and the occurrence had happened during the period between 2003 to 2005. He would submit that the petitioner had acted on the instruction of A1/the Senior Branch Manager and that she has been made as a scape goat in the transaction. He would submit that the prosecution has referred two incidents involving the petitioner in this case namely 04.10.2005 and 07.12.2004. He would submit that on the previous day i.e. on 06.12.2004, the petitioner was on leave and that on the next day, she had been asked to sign in the documents by the Branch Manager. Like wise, on 04.10.2005 also, the petitioner was on leave which has been categorically spoken by P.W.11/Suriyianarayanan, who was working as a Assistant Branch Manager in the particular Branch and through him Ex.P.99 /Attendance Register has also been marked. He would further submit that the entire transaction has been done by A1 and as a Forex Officer, the petitioner was made to sign in the documents. Other than that, the petitioner has no involvement in this case. He would further submit that the petitioner being a lady was not aware of certain transaction and she had innocently signed the documents. Even as

per the Judgment, the entire amount has been settled to the Bank and the Bank has not suffered any loss. He would submit that the petitioner is aged 61 years and she is a widow and that she has got two unmarried daughters. If the sentence is not suspended and if she is asked to surrender, it will spoil the future prospectus of her unmarried daughters and that she has nobody else to support her. He would submit that the fine amount has already been deposited before the trial Court and the trial Court has also suspended the sentence till 18.02.2021. He would further submit that there are several arguable points and that the petitioner is advised that she has got a good case for acquittal and would pray that the substantive sentence imposed against the petitioner may be suspended.

5. The learned Additional Public Prosecutor has raised objections for suspending the sentence stating that the petitioner while working as a Forex Officer in the Vijaya Bank, Tirupur Branch, had conspired with the other accused and by fabrication of documents and tampering of records had transferred accounts of several customers without their knowledge and there are ample materials to show the active involvement of the petitioner.

6. Taking into consideration the submissions made by the learned counsel for the petitioner that the petitioner is a widow who has got two unmarried daughters and also taking into consideration of the fact that the trial court has also suspended the sentence till 18.02.2021, the substantive sentence of imprisonment alone is suspended.

7. Hence, the sentence of imprisonment imposed on the petitioner/appellant by the trial Court alone is hereby suspended till the disposal of the appeal and the petitioner/appellant is ordered to be enlarged on bail on her executing a bond for Rs.25,000/- [Rupees Twenty five thousand only] with two sureties each for a like sum to the satisfaction of the learned II Additional District Judge (CBI Cases), Coimbatore, and on further condition that the petitioner/appellant 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/-
08/02/2021

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

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE II ADDITIONAL DISTRICT
JUDGE (CBI CASES), COIMBATORE.

2 THE INSPECTOR OF POLICE,
CBI, ACB, CHENNAI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 C.C. to M/S.S.RAMACHANDRAN Advocate on payment of necessary charges SR.NO.1286

Order

in
CRL MP.997/2021
in
CRL A.45/2021

Date :08/02/2021

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TA-08/02/2021