IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Twenty Second day of February Two Thousand Twenty One

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION NOS.1941, 1945 & 1947 of 2021

in Crl.A.Nos.79, 81 & 82 of 2021

V.T.ABDUL RAHEEM [APPELLANT / ACCUSED IN CRL.MP.NO.1941 OF 2021 IN CRL.A.NO.79 OF 2021]

S.M.N.DOMINIC [APPELLANT / ACCUSED IN CRL.MP.NO.1945 OF 2021 IN CRL.A.NO.81 OF 2021]

N.RAMACHANDRAN [PETITIONER / APPELLANT / ACCUSED IN CRL.MP.NO.1947 OF 2021 IN CRL.A.NO.82 OF 2021]

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
SPE, CBI, ACB, CHENNAI.
(RC MA1 2009 A0031) [RESPONDENT / COMPLAINANT IN ALL THE PETITIONS]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.A.Nos.79, 81 & 82 of 2021 on the file of the High Court, the High Court will be pleased to suspend the sentence passed on 23.12.2020 passed against the appellant in the Special Calender Case No.6/2010 on the file of the Special Judge (under the Prevention of Corruption Act,1988) and Principal Sessions Judge at Puducherry till disposal of the Crl.A.Nos.79, 81 & 82 of 2021, respectively.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.Nos.79, 81 & 82 of 2021 on the file of the High Court and upon hearing the arguments of M/S.V.MANOHAR, Advocate for the petitioner [IN ALL THE PETITIONS] and of MR.K.SRINIVASAN SPECIAL PUBLIC PROSECUTOR FOR CBI CASES on behalf of the Respondent [IN ALL THE PETITIONS] the court made the following order:-

These Criminal Miscellaneous Petitions have been filed seeking to suspend the sentence passed on 23.12.2020 passed against the appellant / accused in the Special Calender Case No.6 of 2010 on the file of the Special Judge (under the Prevention of Corruption Act, 1988) and Principal Sessions Judge at Puducherry till disposal of the above Appeal.

2.The Appellant/Accused No.1 in Crl.M.P.No.1941 of 2021 in Crl.A.No.79 of 2021 was found guilty of the offence under Sections 120-B r/w 420 IPC, 468, 477-A, 420 IPC r/w 511 IPC and 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988 and he has been convicted and sentenced as under:

S.No.	Conviction	Sentence
1.	Under Section 120-B r/w 420 IPC	Undergo Rigorous Imprisonment for one year To pay a fine of Rs.1,000/- in default to undergo 3 months Rigorous imprisonment.
2.	Under Section 468 IPC	Undergo Rigorous Imprisonment for one year To pay a fine of Rs.1,000/- in default to undergo 3 months Rigorous imprisonment.
3.	Under Section 477-A IPC Act, 1988	Undergo Rigorous Imprisonment for one year To pay a fine of Rs.1,000/- in default to undergo 3 months Rigorous imprisonment.
4.	Under Section 420 IPC r/w.511 IPC	Undergo Rigorous Imprisonment for one year To pay a fine of Rs.1,000/- in default to undergo 3 months Rigorous imprisonment.
5.	Under Section 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988	Undergo one year Rigorous Imprisonment and to pay a fine of Rs.1,000/- in default to undergo 3 months Rigorous Imprisonment.

3.The Appellant/Accused No.2 in Crl.M.P.No.1947 of 2021 in Crl.A.No.82 of 2021 was found guilty of the offence under Sections 120-B r/w 420 IPC, 420 IPC r/w.511 IPC and 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988 and he has been convicted and sentenced as under:

S.No.	Conviction	Sentence
1.	Under Section 120-B r/w 420 IPC	Undergo Rigorous Imprisonment for one year To pay a fine of Rs.1,000/- in default to undergo 3 months Rigorous imprisonment.
2.	Under Section 420 IPC r/w.511 IPC	Undergo Rigorous Imprisonment for one year To pay a fine of Rs.1,000/- in default to undergo 3 months Rigorous imprisonment.
3.	Under Section 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988	Undergo one year Rigorous Imprisonment and to pay a fine of Rs.1,000/- in default to undergo 3 months Rigorous Imprisonment.

4.The Appellant/Accused No.4 in Crl.M.P.No.1945 of 2021 in Crl.A.No.81 of 2021 was found guilty of the offence under Sections 120-B r/w 420 IPC, 477-A, 420 IPC r/w 511 IPC and 13(1)(d) r/w 13 (2) of the Prevention of Corruption Act, 1988 and he has been convicted and sentenced as under:

S.No.	Conviction	Sentence
1.	Under Section 120-B r/w 420 IPC	To pay a fine of Rs.1,000/- in default to undergo 3 months Rigorous imprisonment.
2.	Under Section 477-A IPC Act, 1988	To pay a fine of Rs.1,000/- in default to undergo 3 months Rigorous Imprisonment.
3.	Under Section 420 IPC r/w.511 IPC	To pay a fine of Rs.1,000/- in default to undergo 3 months Rigorous Imprisonment.
4	Under Section 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988	One Year Rigorous Imprisonment and to pay a fine of Rs.1,000/- in default to undergo 3 months Rigorous Imprisonment.

5.The sentences were ordered to run concurrently. Aggrieved against the same, the Appellant/Accused have preferred these Criminal Appeals. Pending disposal of these Criminal Appeals, the Petitioner/Accused have filed these Criminal Miscellaneous Petition, seeking for suspension of sentence.

6.The case of the prosecution is that the accused persons A1 / V.T.Abdul Rahim, Inspector of Police, A2 / Ramachandran, Superintendent of Police and A4 / S.M.N.Dominique, Sub Inspector of Police, A5 / S.Maria Regis, Junior Accounts Officer, A6 / Md. Mustafa Kamal, Senior Accounts Officer, working in the Puducherry Plice, being the public servants of Government of Puducherry, along with A3 / Saravanan (died), A7 / M.Karthikeyan and A8 / M.Subramanian, Private persons, have all entered into criminal conspiracy during the year 2009 hatched at Puducherry and other places for the purpose of cheating the Puducherry Police in the matter of purchase of 2000 Nos. of helmets for Puducherry Police and in the month of February 2009, after approval of the proposal to procure 2000 Nos. of Crash helmets for Purcherry Police by A2, forwarded by A1 and mooted out by A4. After having sent call letters to the firms viz. 1.M/s.Vivi Trading Corporation, Chennai, 2.M/s.Ganesh Enterprises, Puducherry, 3.M/s.Lokesh Head Wear, Chennai, 4.M/s.Penguin Traders, Chennai, 5.M/s.P.Kannimuth Chetty Son, Chennai and 6.M/s.Laxmi Corporation, Chennai which are all being run by A3 (died), said A3 (died) forged and fabricated quotations in the name of the above said six firms with the assistance of A7 and A3 (died) signed in the quotation of firm M/s.N.S.Lokesh Head Wear, Chennai in the fictitious name N.S.Lokesh and also the quotation of firm M/s.P.Kannimuthu Chetty

Son, Chennai in the fictitious name P.K.Kumar and at the instance of A3 (died), A7 signed in the quotation of firm M/s.Laxmi Corporation, Chennai in the fictitious name B.Ramesh and also the quotation of firm M/s.Ganesh Enterprises, Puducherry in the fictitious name D.Ganesh, quoting different prices intending that the said quotations shall be used for the purpose of cheating, A8 prepared invoice No.921, dated 30.03.2009 for a sum of Rs.19,96,800/- of M/s.N.S.Lokesh Head Wear, which was submitted to Puducherry Police by A3 at the instance of A4 without receiving the stock created the invoice as if the goods were received. A1 made endorsement on the back side of the Invoice No.921 dated 30.03.2009 as though the goods had been received intact and taken into stock vide R.V.No.54/C1/2009 dated 30.3.2009 and on 31.03.2009, at Puducherry, A4 being the Sub Inspector of Police of Puducherry Police Stores, wilfully and with intent to defraud, made false entry in the stores Receipt bearing No.07767, dated 30.03.2009 as if 2000 Nos. of helmets were received from M/s.Lokesh Head Wear, Chennai without actually receiving the helmets and also in the Stock Register at Page No.781 and A1 being the Inspector of Police, Puducherry Police also wilfully and with an intent to defraud the Government of Puducherry also signed in the reverse of the Invoice of the said M/s.Lokesh Head Wear, Chennai which registers, receipts belonged to Puducherry Police which was in possession of A4 and in the months of February and March 2009, at Puducherry, as a consequence of the conspiracy hatched among A1, A2, A4, A6 to A8 along with deceased A3 attempted to cheat the Government of Puducherry viz. Puducherry Police, by dishonesly inducing the Directorate of Accounts and Treasuries, Puducherry to deliver the cheque for a sum of Rs.19,96,800/- vide cheque No22904, dated 31.03.2009 by presenting a bogus bill No.553/3/09, dated 31.03.2009, for the supply of 2000 Nos. of helmets to Puducherry Police, as if the helmets were supplied to Puducherry Police through M./s.Lokesh head Wear Chennai, by a bogus invoice, which was run by A3 (died) on the proposal mooted out by A4 submitted and approved by A2 and 1 respectively, preparing bills and certifying without verifying its genuineness of the bills by A5 (discharged) and A6 and A7 and A8 assisted A3 (died) in preparing forged quotations and invoice submitted the same to Puducherry Police and the said cheque drawn from Directorate of Accounts and Treasuries, Puducherry was not handed over to A3 due to Audit objections and on the same day, time and place and during the course of the same transaction, A1, A2, A4 and A6 being the public servants of the Police Department, Government of Puducherry, committed Criminal misconduct by misusing or abusing their official position as Inspector of Police, Superintendent of Police, Sub-Inspector of Police, Junior Accunts Officer and Senior Accounts Officer respectively of the Government of Puducherry misused their official positions and facilitated A3 (died) to obtain pecuniary advantage of Rs.19,90,800/- by forging the invoices, stock registers and receipts. Charges were framed against A1 for having committed the offence punishable u/s. 120-B r/w 420 IPC, 468, 477-A, 420 IPC r/w 511 IPC and 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988 and A2 for having committed the offences punishable u/s.

120-B r/w 420 IPC, 420 IPC r/w.511 IPC and 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988 and A4 for having committed the offence 120-B r/w 420 IPC, 477-A, 420 IPC r/w 511 IPC and 13 (1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988 and after trial they were found guilty and convicted as stated above.

7.The learned counsel for the Appellant/Accused would submit that the the Petitioners/Accused are innocent and they were made scapegoats in this case. He would further submit that the petitioner in Crl.M.P.No.1941 of 2021 is arrayed as A1 and the petitioner in Crl.M.P.No.1945 of 2021 is arrayed as A4 and the petitioner in Crl.M.P.No.1947 is arrayed as A2 in this case. He would further submit that except making proposals, the petitioners have not committed any offence. The Trial Court erred in convicting the Appellant/Accused when the prosecution has not proved the case beyond all reasonable doubts. The petitioners are not vested with any authority to approve the purchase and make payment and they have only forwarded the proposal to the recommending authority. He would further submit that the Trial Court has failed to see that since there was an objection in the audit, the amounts were not paid to the suppliers, thereby the Government has not suffered any loss. When the Trial Court having found the other accused not guilty and having acquitted the other accused, the petitioners should have also been acquitted on the same set of evidence. He would submit that there are arguable points available in the appeal and that the Appellant/Accused are advised that they have got a fair chance of succeeding in the appeals and would pray that the substantive sentence of imprisonment imposed against the Appellants/Accused may be suspended.

8.Learned Special Public Prosecutor (CBI Cases) would submit that the prosecution has proved its case beyond all reasonable doubts and that on the side of the prosecution, they have examined 43 witnesses viz P.W.1 to P.W.43 and marked 28 documents viz. Ex.P1 to Ex.P118 and 2 material objects were marked as M.O.1 and M.O.2. Hence, he opposed for the grant of bail to the Appellants/Accused.

9.Considering the facts and circumstances of the case and also considering the submissions of the learned counsel on either side, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Appeal, the substantive sentence of imprisonment alone is suspended and the Appellants/Accused are ordered to be enlarged on bail, on the following conditions:-

i. The Appellants/Accused shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each, with two sureties, each for a like sum to the satisfaction of the Special Judge (under the Prevention of Corruption Act, 1988) and the learned Principal Sessions Judge at Puducherry

ii. The Appellants/Accused 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/-
22/02/2021

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 SPECIAL JUDGE
(UNDER PREVENTION OF CORRUPTION ACT) AND
PRINCIPAL SESSIONS JUDGE, PUDUCHERRY.

2 THE SPECIAL PUBLIC PROSECUTOR FOR CBI CASES,
PUDUCHERRY.

3 THE INSPECTOR OF POLICE,
SPE, CBI, ACB, CHENNAI.

+3C.C. to M/S.V.MANOHAR Advocate on payment of necessary charges SR NOS.2021, 2022, 2023

Order
in
CRL.MP.NOS.1941, 1945 & 1947 of 2021
in Crl.A.Nos.79, 81 & 82 of 2021

Date :22/02/2021

From 7.2.2001 the Registry is issuing certified copies of the BAIL/Anti.BAIL Orders in this format

MK:22/02/2021