

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the First day of April Two Thousand Twenty One

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.3737 of 2021

IN CRL.A.No.136 of 2021

M.ARUMUGAM [PETITIONER/APPELLANT/ACCUSED]

Vs

STATE REP.BY [RESPONDENT/COMPLAINANT]
THE DEPUTY SUPERINTENDENT OF POLICE,
(V AND AC) VILLUPURAM.
CR.NO.04/2014.

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 imposed on him in Special Case No.2 of 2017 dated 02.03.2021 on the file of the Learned Special Judge, Special Court for Prevention of Corruption Act Cases, Villupuram and enlarge him on bail on such terms and conditions as may be imposed by this Honble Court pending disposal of the Criminal Appeal No.136 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. R.NATARAJAN, Advocate for the petitioner, and of M/S.V.SHARATHA DEVI, Govt. Advocate (Crl. Side) 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 Special Case No.2 of 2017 dated 02.03.2021 on the file of learned Special Judge, Special Court for Prevention of Corruption Act Cases, Villupuram, pending disposal of the Criminal Appeal.

2. The petitioner/appellant herein is an accused in Special Case No.2 of 2017 dated 02.03.2021 on the file of learned Special Judge, Special Court for Prevention of Corruption Act Cases, Villupuram, and he was found guilty of offence under Sections 7 and 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 and convicted and sentenced as follows

S.No.	Conviction	Sentence
1.	U/s.7 of P.C. Act 1988	4 years Rigorous Imprisonment and shall pay fine of Rs.5,000/- in default to undergo 6 months Simple Imprisonment.
2.	U/s.13(2) read with 13(1)(d) of P.C. Act 1988	4 years Rigorous Imprisonment and shall pay fine of Rs.5,000/- in default to undergo 6 months Simple Imprisonment

3.The sentences were ordered to run concurrently. Aggrieved against the same, the petitioner/appellant has preferred the Criminal Appeal. Pending in Criminal Appeal, the Petitioner/Appellant has filed the present Criminal Miscellaneous Petition, seeking for suspension of sentence.

4. The case of the prosecution is that the petitioner /appellant is the Panchayat President at Devadhanampettai Village, Gingee Taluk, Villupuram District and he is a Public Servant as defined under Section 2(c) of the P.C. Act, 1988. On 14.08.2014 at about 8 a.m., when the defacto complainant viz., P.Sudha had approached the petitioner/appellant at Devadhanampettai Village Panchayat Office for getting the cheque for a sum of Rs.59,541/- sanctioned to her for the construction of house under the Indira Awas Yojana Scheme, the petitioner/appellant had demanded a sum of Rs.10,000/- from her as illegal gratification for handing over the said cheque. Subsequently on 20.08.2014, the petitioner/appellant has insisted his demand of Rs.10,000/- as illegal gratification. As she was not inclined to pay the bribe, she preferred a written complaint on 21.08.2014 before the Office of Vigilance and Anti-Corruption pursuant to which, a FIR was registered and a trap was laid wherein, the petitioner/appellant was caught red handed while accepting the bribe amount of Rs.10,000/- from the complainant. After investigation, the final report was filed for offences under Sections 7 and 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 for having received illegal gratification and for abusing his official position and the case was taken up for trial in Spl. Case No.2 of 2017 by the trial Court. During the Course of trial, the prosecution examined 10 witnesses as PW.1 to PW.10 and marked 17 documents as Exs. P.1 to P17 and M.O.1 to M.O.5. were marked as Material Objects. After completion of trial, the Trial Court found the petitioner/appellant guilty and convicted and sentenced him as stated above.

5. The learned counsel for the petitioner/Appellant would submit that the Trial Court has erred in convicting the petitioner /appellant, when the prosecution has not proved its case beyond all reasonable doubts. He would further submit that the respondent have not obtained proper sanction for prosecuting the petitioner. Further, the petitioner had examined two defense witnesses on his side,

whereas the trial Judge did not mention about them in the order. However, later passed an amended order which is illegal and which would show that the trial Judge had passed the Judgment without proper application of mind. He would submit that there are several arguable points and that the petitioner/appellant is advised that he has got a good case for acquittal. He would further submit that the petitioner/appellant after conviction was remanded to judicial custody on 02.03.2021 and that the petitioner/appellant is now confined in the District Jail, Villupuram and he would pray that the substantive sentence of imprisonment imposed against the petitioner/appellant may be suspended. He would also submit that the fine amount has already been paid on 02.03.2021.

6. The respondent has filed a detailed counter in which, it has been stated that the trap was laid after preliminary verification as per the manual and according to the regular procedures followed by the Department of Vigilance and Anti-Corruption and the petitioner was caught red handed while receiving bribe. The prosecution has proved that there was a demand and acceptance by letting cogent evidence and the trial Court finding that the case of the prosecution has been proved beyond doubt, has convicted the petitioner.

7. The learned Government Advocate (Crl. Side) would submit that the prosecution by letting cogent evidence has proved its case and the trial Court after considering the evidences in a proper prospective has rightly convicted the petitioner and she would object for suspending the sentence.

8. Taking into consideration the submissions made by the learned counsels the substantive sentence of imprisonment alone is suspended.

9. 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 conditions that;

a) The petitioner/appellant shall execute a bond for a sum of Rs.50,000/- [Rupees Fifty Thousand Only] with two sureties each for a like sum to the satisfaction of the learned Special Judge, Special Court for Prevention of Corruption Act Cases, Villupuram,

b) 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/-
01/04/2021

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, SPECIAL COURT FOR
PREVENTION OF CORRUPTION ACT CASES,
VILLUPURAM.

2 THE OFFICER-INCHARGE
DISTRICT JAIL, VILLUPURAM.

3 THE DEPUTY SUPERINTENDENT OF POLICE,
V AND AC, VILLUPURAM.

4 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

5 THE PUBLIC PROSECUTOR (V AND AC)
HIGH COURT, MADRAS.

+2 C.C. to M/S. R.NATARAJAN Advocate on payment of necessary charges SR.NO.4374

Order

in
CRL MP.3737/2021
in
CRL A.136/2021

Date :01/04/2021

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