



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Thursday, the Sixteenth day of December Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA
CRIMINAL MISCELLANEOUS PETITION No.12090 of 2021

IN CRL A.583/2021

PALANISAMY

[APPELLANT/2ND ACCUSED]

Vs

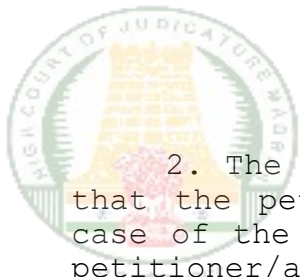
STATE OF TAMILNADU REP.BY
SUB-INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH,
EGMORE, CHENNAI - 600 008.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL A.583/2021 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed upon the petitioner pursuant to the order of conviction dated 17.11.2021, passed in S.C.No.488 of 2005 on the file of the I Additional Sessions Judge, Chennai, convicting the Appellant and sentenced to undergo 5 years rigorous Imprisonment and imposed with fine of Rs.25000/- (Rupees twenty five thousand only) in default to undergo further simple imprisonment of six months for offence u/.s 420 of IPC in terms of Sec.235(2) of Cr.P.C. and convicting the appellant and sentenced to undergo 5 years of rigorous imprisonment and imposed with fine of Rs.25000/- (Rupees twenty five thousand only) in default to undergo further simple imprisonment of six months for offence u/s.120(b) of IPC in terms of Sec.235(2) of Cr.P.C. pending disposal of the above CRL A.583/2021.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL A.583/2021 on the file of the High Court and upon hearing the arguments of M/S. P.RAJA, Advocate for the petitioner and of MR.S.SUGENDRAN, Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

This Criminal Miscellaneous Petition has been filed by the petitioner/accused, seeking suspension of sentence of imprisonment imposed by the order, dated 17.11.2021 in S.C.No.488 of 2005 passed by the I Additional Sessions Judge, Chennai.



2. The learned counsel for the petitioner / accused would submit that the petitioner and the defacto complainant are brothers. The case of the prosecution is that A1, the fake God man along with the petitioner/accused conspired together to cheat the defacto complainant by taking a sum of Rs.30 lakhs from him under the guise of solving all his problems and dragging him to the stage of bankruptcy and in pursuance of the conspiracy, the petitioner is stated to have called the defacto complainant to meet A1 at Coimbatore with another brother and that A1 urged the defacto complainant to come and meet him at Madras by arranging a sum of Rs.30 lakhs, assuring that the defacto complainant would get his due share from the petitioner in Rajendra Textiles at Madurai belonging to the joint family and all his subsisting problems could be solved. It is the further case of prosecution that induced by sweet words of A1, the defacto complainant had sold the Power looms for a sum of Rs.24 lakhs and borrowed a sum of Rs.6 lakhs from his relatives and met A1 on 01.07.2004 at 11 a.m along with his brother Balasubramanian, and his friends and handed over the cash to him. It is the further case that he did not settle the dispute. On realising the fraud committed by A1 and A2, the defacto complainant along with his known persons have gone to the Ashram of A1 situate at T.Nagar, Chennai on 16.09.2004 and demanded return of the money and that A1, A2 along with other accused have threatened and driven him out.

3. The learned counsel for the petitioner/accused would submit that though the alleged occurrence is stated to have been taken place on 16.09.2004, the complaint has been given much belatedly on 19.11.2004, after a period of two months. The prosecution has failed to prove the case beyond all reasonable doubts. The payment of Rs.30 lakhs was not substantiated by any legal evidence. The trial Court on an erroneous consideration, had found that the amounts were paid. The petitioner by marking Ex.D4, while cross examining P.W.1, had disproved the case of the defacto complainant.

4. The learned counsel would further submit that there are other arguable points available in this case, which are not likely to be taken for final hearing in the near future and the Petitioner/accused have got a fair chance of succeeding in the Appeal. The petitioner/accused was on bail by the order of the trial Court and that he has been regularly attending the Court. He would further submit that the petitioner is a senior citizen and the fine amounts imposed have also been paid. Therefore, he prays to suspend the sentence imposed on him.

5. Mr.S.Sugendran, learned Government Advocate (Crl. Side) would submit that the Defacto Complainant is the brother of the petitioner. The petitioner along with A1, the fake god man, had induced the defacto complainant in the guise of solving his problems and grabbed the amount of Rs.30 lakhs from him and thereafter the petitioner



along with A1 and other accused have threatened him and driven him away. He would submit that A1 is absconding and A3 and A4 are acquitted by the trial Court.

6. Heard the learned counsel for the petitioner/accused and the learned Government Advocate (Crl.Side) appearing for the respondent and perused the materials on record.

7. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner, 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 reliefs of suspension of sentence and bail are granted, on the following conditions :

- i. The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five only), with two sureties, each for a like sum to the satisfaction of the I Additional Sessions Judge, Chennai.
- ii. The petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

8. The Criminal Miscellaneous Petition stands ordered accordingly.

9. As it is stated that the petitioner/accused is detained in Central Prison, Puzhal, Chennai, a copy of this order shall be forwarded to the Superintendent of Central Prison, Puzhal, Chennai.

-sd/-

16/12/2021

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 I ADDITIONAL SESSIONS JUDGE,
CHENNAI

2 SUB-INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH,
EGMORE, CHENNAI - 600 008.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE OFFICER INCHARGE,
SUB JAIL, SAIDAPET, CHENNAI

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI,
CHENNAI

C.C. to M/S. P.RAJA Advocate on payment of necessary charges
Sr.14934

Order

in
CRL MP.12090/2021

in
CRL A.583/2021

Date :16/12/2021

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

RVR 16/12/2021