



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Second day of December Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice V. BHARATHIDASAN

CRIMINAL MISCELLANEOUS PETITION No.13989 of 2021

IN CRL.A.No.689 of 2021

1 MOHAMMED NAZEER

[PETITIONERS/APPELLANTS/ACCUSED]

2 FOUZIA BEGAM

Vs

STATE REP BY

[RESPONDENT/COMPLAINANT]

THE INSPECTOR OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
CITY SPECIAL UNIT-III,
CHENNAI-35.
(CR.NO.25/AC/2009/CC-II).

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.No.689 of 2021 on the file of the High Court, the High Court will be pleased to suspend the sentence passed on 29/11/2021 passed against the appellants in the CC No.19/2012 on the file of the Special Judge, Special Court for the cases under Prevention of Corruption Act, at Chennai-104.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.No.689 of 2021 on the file of the High Court and upon hearing the arguments of MR.V.MANO HAR Advocate for the Petitioner and of MR. C.E.PRATAP, Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

Mr. C.E.Pratap, learned Government Advocate(crl. side), takes notice for the respondent.

2. The petitioners, who are arrayed as A1 and A2 in C.C.No.19 of 2012 on the file of the Special Judge, Special Court for the cases under the Prevention of Corruption Act, Chennai, seeks suspension of their sentence of imprisonment.

3. The case of prosecution is that A1 was working as Inspector of Police and A2 is the wife of A1. During the check period from



01.01.1999 to 31.01.2006, the 1st petitioner/A1 had acquired various resources, which were disproportionate to his known source of income and also purchased the property in the name of A2 to the tune of Rs.22,10,427/-. Hence, a F.I.R. in Crime No. 25/AC/2009-CC-II, was registered and after trial, the trial Court by a judgment dated 29.11.2021, convicted both the petitioners/A1 and A2 and sentenced them as under:

A1 convicted under Section	Sentence
13(2) r/w 13(1)(e) of the Prevention of Corruption Act	Rigorous imprisonment for a period of three years and to pay a fine of Rs.5000/-, in default, to undergo simple imprisonment for three months.
A2 convicted under Section	Sentence
109 I.P.C. r/w u/S. 13(2) r/w 13(1)(e) of the Prevention of Corruption Act	Rigorous imprisonment for a period of one year and to pay a fine of Rs.5000/-, in default, to undergo simple imprisonment for three months.

The Trial Court ordered the sentences to run concurrently.

5. Challenging the above said conviction and sentence, the present appeal has been filed along with this petition for suspension of sentence.

6. Mr.V.Manohar, learned counsel appearing for the petitioners would content that all the properties are stand in the name of A2, wife of A1. During check period, due to matrimonial dispute, both of them living separately and various litigations are pending before various courts. In those circumstances, there is no occasion for A1 to purchase the property in favour of A2. All the properties stand in the name of A2, which were given as gift by her father. But, the Trial Court, without considering the same, convicted both the petitioners/A1 and A2. Hence, he prayed to suspend the sentence imposed against them.

6. Per contra, Mr. C.E.Pratap, learned Government Advocate (Criminal side) appearing for respondent would submit that the 1st petitioner was working as Sub-Inspector of Police in the Tamil Nadu Police department. He has accumulated asset nearly to the tune of Rs.23 lakhs, which is disproportionate to his known source of income and also diverted the fund to purchase the property in the name of 2nd petitioner. The prosecution has established the crime beyond reasonable doubt and the Trial Court, after considering all those



materials, has rightly convicted the petitioners and there is no reason to interfere with the findings of the trial Court. Hence, considering the gravity of offence, it is not a fit case for suspending sentence.

WEB COPY

7. Heard both sides and perused the impugned judgment and the materials available on record.

8. Taking into consideration of the submission of the learned counsels appearing on both sides and considering the fact that since there are some arguable points involved in this appeal and that apart, pending trial, the petitioner/appellants were on bail, the trial Court also suspended the sentence, and there are no bad antecedents against the petitioners, I am inclined to suspend the substantive sentence of imprisonment alone.

9. Accordingly, pending appeal, substantive sentence of imprisonment alone is suspended and the petitioners are directed to be enlarged on bail on condition that they shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Special Judge, Special Court for Trial of cases under the Prevention of Corruption Act, Chennai, with further condition that they shall appear before the said court once in a month, i.e., on the first working day of every month at 10.30 a.m., until further orders.

-sd/-

22/12/2021

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 THE SPECIAL JUDGE,
SPECIAL COURT FOR THE CASES UNDER PREVENTION
OF CORRUPTION ACT, CHENNAI-104.

2 THE INSPECTOR OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
CITY SPECIAL UNIT-III, CHENNAI-35.



3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1C.C. to M/S.V.MANO HAR Advocate on payment of necessary
charges SR.NO.15340

Order
in
CRL MP.13989/2021
in
CRL.A.689/2021
Date :22/12/2021

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

CSK 22/12/2021