



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Thursday, the Eighteenth day of February Two Thousand and Twenty One

WEB COPY

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.826 of 2021
in
CRL A(MD)No.50 of 2021

V.BALAKRISHNAN

... PETITIONER/1ST APPELLANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
E.O.W.II, DINDIGUL
DINDIGUL DISTRICT.

... RESPONDENT/RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the sentence passed in C.C.NO.04 of 2008 on the file of the Special Court under the Tamil Nadu Protection of Interest of Depositors (in Financial Establishment) Act, 1997, Madurai, dated on 31/12/2020 pending disposal of above said appeal.

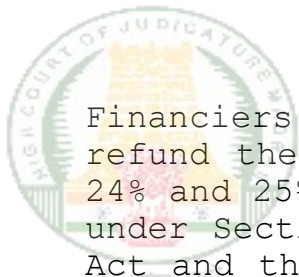
PRAYER IN CRL A(MD)No.50 of 2021:

Pleased to call for the records and set aside the judgment passed in C.C.No.04 of 2008 on the file of The Special Court Under the Tamil Nadu Protection of Interest of Depositors(In Financial Establishment), Act, 1997, Madurai, dated on 31.12.2020 and allow the Criminal Appeal.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.R.SUNDAR, Advocate for the petitioner and of Mr.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-

This petition has been filed to suspend the sentence imposed by the Special Court under the Tamil Nadu Protection of Interest of Depositors (in Financial Establishment) Act, Madurai, in C.C.No.4 of 2008, dated 31.12.2020, till the disposal of the appeal.

2.The case against the petitioner is that the petitioner and two others were running a financial Establishment viz., Aiswarya



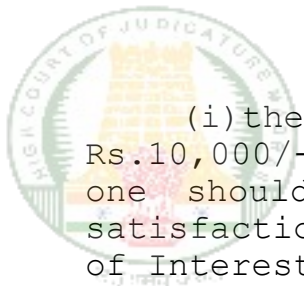
Financiers and they collected deposit from the public and failed to refund the amount and they cheated the depositors by offering 18%, 24% and 25% interest. A case in Crime No.06 of 2002 was registered under Sections 420, 406, 120(b) I.P.C and under Section 5 of TNPID Act and the same was taken on file as C.C.No.4 of 2008. After the trial the Special Court, found the petitioner and A3 guilty under Sections 406, 120(B) of IPC and under Section 5 of TNPID Act. The trial Court convicted the petitioner/ A2 under Section 406 of IPC and sentenced him to undergo one year rigorous imprisonment and convicted the petitioner / A2 under Section 120(B) of IPC and sentenced him to undergo one year rigorous imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only), in default to undergo a further period of three months rigorous imprisonment and convicted the petitioner / A2 under Section 5 of TNPID Act and sentenced him to undergo five years rigorous imprisonment and to pay a fine of Rs.10,000/- (Rupees Ten Thousand only), in default to undergo a further period of six months rigorous imprisonment. Against the conviction and sentence imposed by the trial Court, the petitioner has filed a criminal appeal in Crl.A.(MD)No.50 of 2021 and along with the appeal, he filed this petition for suspension of sentence.

3.On the side of the petitioner, it is stated that the amount of the petitioner is still with the defacto complainant and the trial Court failed to consider the same and the petitioner / Balakrishnan/ A2 has undergone a Kidney surgery and a stunt was inserted and the same has to be removed by was of another Surgery. The petitioner is in custody from 31.12.2020 onwards and there are much more points to be argued in the main appeal and prayed the sentence to be suspended till the disposal of the appeal.

4.On the side of the prosecution, it is stated that totally there are three accused, the first accused is the Firm and A3 is the wife of the petitioner / A2. The petitioner/A2 was only a diabetic patient, he undertook treatment in the Government Hospital and he is stable and carrying out his daily activities normally and prayed the petition to be dismissed.

5. It is seen that from the report of the Medical Officer, Prison Hospital, Madurai, that the petitioner / A2 had undergone surgery on 21.12.2020. There are some arguable points for the petitioner in the appeal and considering the health condition of the petitioner / A2 and on considering that the Criminal Appeal is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

6.Accordingly, the substantive sentence of imprisonment alone is suspended till the disposal of the appeal and the petitioner is ordered to be released on bail on the following conditions:



(i)the petitioner is directed to execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Special Court under the Tamil Nadu Protection of Interest of Depositors (in Financial Establishment) Act, Madurai;

(ii)the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of any valid identity proof to ensure their identity ;

(iii)the petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the appeal.

sd/-
18/02/2021

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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1.THE SPECIAL COURT UNDER THE TAMIL NADU
PROTECTION OF INTEREST OF DEPOSITOR,
(IN FINANCIAL ESTABLISHMENT) ACT, 1997, MADURAI.

2.THE INSPECTOR OF POLICE
E.O.W.II,DINDIGUL
DINDIGUL DISTRICT.

3.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.826 of 2021
in
CRL A(MD)No.50 of 2021
Date :18/02/2021

LS
TK/PN/SAR.1/19.02.2021/3P/4C