



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

Wednesday, the Tenth day of March Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) Nos.1857 and 1859 of 2021
in
CRL RC(MD)No.171 of 2021

MANICKAM

... PETITIONER/PETITIONER
IN BOTH PETITIONS

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
KARUR.
CRIME NO.3/2015

... RESPONDENT/RESPONDENT
IN BOTH PETITIONS

PRAYER IN CRL MP(MD)No.1857 of 2021 in CRL RC(MD)No.171 of 2021:

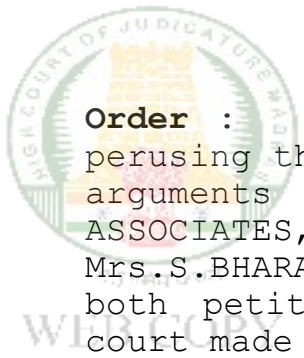
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed on the petitioner/Accused above name in C.C.No.120 of 2015 on the file of the Judicial Magistrate No.II, Kulithalai dated 26/09/2019 and confirmed by the Principal District Judge, Karur in C.A.No.93 of 2019 by his order dated 10.09.2021 and enlarge petitioner on bail pending disposal of the main Revision Petition.

PRAYER IN CRL MP(MD)No.1859 of 2021 in CRL RC(MD)No.171 of 2021:

To grant exemption to the petitioner from surrendering to the custody pursuant to the order of conviction and award of sentence rendered by the Judicial Magistrate No.II, Kulithalai in C.C.No.120 of 2015 by his order dated 26/09/2019 and confirmed by the Principal District Judge, Karur in C.A.No.93 of 2019 by his order dated 10.09.2021 pending disposal of the main Revision Petition.

PRAYER IN CRL RC(MD)No.171 of 2021:

Pleased to call for the records and set aside the order passed by the Judicial Magistrate No.II, Kulithalai in C.C.No.120/2015 by his order dated 26.09.2019 and confirmed by the Principal District Judge, Karur in C.A.No.93 of 2019 by order dated 10.09.2020 as against the Revision Petitioner and allow this Criminal Revision Petition.

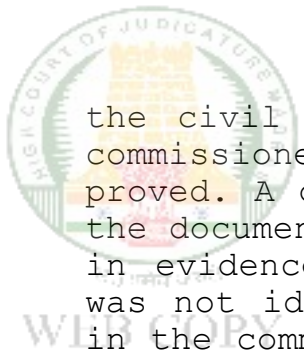


Order : These petitions coming up for orders on this day, upon perusing the petitions filed in support thereof and upon hearing the arguments of Mr.ANATHAPADMANABHAN, Advocate for M/S.APN LAW ASSOCIATES, Advocate for the petitioner in both petitions, and of Mrs.S.BHARATHI Government Advocate on behalf of the Respondent in both petitions, while admitting the Criminal Revision Case, the court made the following order:-

These petitions have been filed (i) to suspend the execution of sentence by granting bail in C.A.No.92 of 2019, dated 10.09.2020 on the file of learned District Judge, Karur, confirming the conviction and sentence of the learned Judicial Magistrate No.II, Kulithalai in C.C.No.120 of 2015, dated 26.09.2019 and (ii) to exempt the petitioner from surrendering before the lower Court.

2.The petitioner is A3 in the case. The case against the petitioner and others is that the A1 is one of the owners of the property. He executed a power deed in favour of A2. They suppressed the pendency of a partition suit in O.S.No.216 of 2014 and they executed a sale deed in favour of the Government without disclosing the pendency of civil suit and A2 on behalf of A1 has received a sum of Rs.9,22,299/- (Rupees Nine Lakhs Twenty Two Thousand Two Hundred and Ninety Nine only) as sale consideration from the Government. The petitioner/A3 was the Village Administrative Officer at that period, he accompanied the Advocate Commissioner appointed in the civil suit in O.S.No.216 of 2014 to measure the properties. On 26.08.2007, he has identified the land on the basis of the revenue records. A3 is also a member in the committee constituted to decide the acquisition of the properties under private negotiation by the District Administration. He has participate in the said meeting on 16.03.2009 and he has put his signature in the said proceedings but he failed to discuss the pendency of the case. A case was registered in Crime No.3 of 2015 against the petitioner and others and the same was taken on file as C.C.No.120 of 2015 on the file of the learned Judicial Magistrate No.II, Kulithalai. After trial, the learned Judicial Magistrate No.II found the petitioner guilty under Section 420 r/w. 34 of IPC and sentenced him to undergo one year rigorous imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) in default to undergo three months simple imprisonment. Against the conviction and sentence imposed by the trial Court, the petitioner preferred an appeal in C.A.Nos.92, 93 and 96 of 2018 before the Principal Sessions Judge, Pudukottai. The appeals were dismissed by the learned Principal Sessions Judge. Against the order, the petitioner preferred a Criminal Revision in Crl.R.C.(MD) No.8 of 2021. Along with the revision, the petitioner filed these applications (i) for suspension of sentence (ii) for exemption of surrendering before the trial Court.

3.On the side of the petitioner, it is stated that the allegation against the petitioner is that he was present at the time of the trial of the advocate commissioner in O.S.No.219 of 2014. But



the civil Court document were not proved by the prosecution. The commissioner was not examined. The contents of the document were not proved. A document is inadmissible in evidence unless the author of the document was examined. The commissioner report is not admissible in evidence. Ex.P13 was marked only through P.W.1. The petitioner was not identified by the Court commissioner. The V.A.O. mentioned in the commissioner report may be some other person. The petitioner is acquitted from the charges under Section 420 of IPC. The visit of the commissioner is before three years. There is possibility of the petitioner to have forget then the earlier proceedings. The parties in the civil suit can get their share amount from A1. There is no loss to the Government. The property is with the Government. There is no allegation against the petitioner for receiving any amount from the Government or from the parties. There is no complaint against the petitioner. There is no connection between the petitioner and other accused. All the parties are family members of A1. The petitioner retired on 30.04.2011 that is 10 years ago. The petitioner is now aged about 68 years having so many physical ailments. The petitioner did not derive any income from the above said proceedings and that he might have foolishly signed a document. There are much point for arguments in the appeal and prayed the sentence imposed upon the petitioner to be suspended.

4.On the side of the respondent, it is stated that the property of A1 was acquired by the Government. There is pendency of a civil suit. The petitioner has accompanied the Court commissioner in the suit. The petitioner is a member in the acquisition committee. But he failed to mention the pendency of the case. The petition copy of the civil suit was marked as Ex.P15. The prosecution has examined 8 witnesses and marked 27 documents. The prosecution has proved the case beyond all reasonable doubts and prayed the petition to be dismissed.

5.It is seen that the petitioner is a retired Village Administrative Officer. He is alleged to have accompanied the commissioner in a civil suit. The petitioner being the V.A.O., at that time has failed to intimate the pendency of the civil suit though he was a member of the acquisition committee. The learned counsel for the petitioner has raised substantial points in the memorandum of revision, which require a detailed consideration by this Court. Considering the fact that the Criminal Revision Case 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 for the relief of suspension of sentence.

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

- (i) The petitioner is not exempted from appearing before the trial Court and the petitioner



is directed to surrender before the Judicial Magistrate No.II, Kulithalai, within a period of two weeks from the date of receipt of copy of this order.

(ii) 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 learned Judicial Magistrate No.II, Kulithalai.

(iii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of their valid identity card to ensure their identity.

(iv) 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.

7. Accordingly, Crl.M.P. (MD) No.1859 of 2021 is dismissed.

sd/-
10/03/2021

/ TRUE COPY /

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

TO

1. THE PRINCIPAL DISTRICT JUDGE, KARUR.
2. THE JUDICIAL MAGISTRATE No.II,
KULITHALAI.
3. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KARUR DISTRICT.
4. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, KARUR.
5. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CRL MP(MD) Nos.1857 and
1859 of 2021 in
CRL RC(MD) No.171 of 2021
Date : 10/03/2021

MRN

<https://hccservices.gov.in/hccservices/3.2021/4P/6C>