



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

Thursday, the Twenty First day of October Two Thousand and
Twenty One

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PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL MP (MD) No.7905 of 2021

IN

CRL A (MD) No.409 of 2021

MAHALINGAM

... PETITIONER/APPELLANT

Vs

THE STATE REP BY
THE INPSECTOR OF POLICE
VIGILANCE AND ANTI-CORRUPTION,
TRICHY DISTRICT.
(CRIME NO.28/2011)

... RESPONDENT/ RESPONDENT

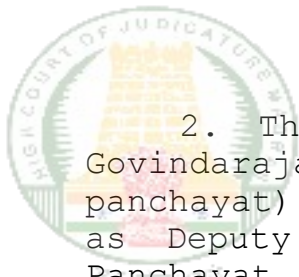
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the sentence imposed on the petitioner by order dated 17/09/2021 passed in Spl.C.C.No.24 of 2014 passed by the Learned Chief Judicial Magistrate, Karur, pending disposal of the above Criminal Appeal.

Prayer in CRL A (MD) No.409 of 2021:

To call for the records pertaining to the impugned judgment made in Special C.C.No.24 of 2014 dated 17.09.2021 passed by the Learned Chief Judicial Magistrate, Karur and set aside the same by allowing this 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.JAMEEL ARASU.B., Advocate for the petitioner and of MR.E.ANTONY SAHAYA PRABAHAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition has been preferred by the second accused seeking to suspend the sentence imposed on him by judgment and order dated 17.09.2021 passed in Spl.C.C.No.24 of 2014, on the file of the learned Chief Judicial Magistrate, Karur, and to enlarge the petitioner on bail pending disposal of the appeal.



2. The case of the prosecution is that the first accused Govindarajan was serving as Block Development Officer (block panchayat) and the petitioner/second accused Mahalingam was working as Deputy Block Development Officer (Admin-Manager) at Kadavur Panchayat Union Office at Tharagampatti, Karur District. On 08.11.2011 at about 10.30 a.m., the first accused and this petitioner actuated by corrupt motive, demanded bribe amount of Rs.10,000/- and Rs.5,000/- respectively for themselves at their office from the defacto complainant Krishnan for arranging and issuing the cheque leaf for Rs.65,500/- towards the remaining amount of money payable to the defacto complainant Krishnan for the wooden boxes supplied by him to Kadavur Panchayat Union Office at Tharagampatti for counting the ballot paper (votes) in the counting centre's after the recent local poll.

3. In the course of continuation of the same transaction and in pursuance of earlier attempts to obtain, the first and second accused on 09.11.2011 between 12.10 p.m., and 12.30 p.m., at their office, in the presence of official witness Anburaja, reiterated their earlier demand and obtained themselves gratification other than legal remuneration of Rs.10,000/- and Rs.5,000/- from the defacto complainant as motive for doing official act for arranging and issuing the cheque leaf for Rs.65,500/- towards the remaining amount of money payable to the defacto complainant for the wooden boxes supplied by him to Kadavur Panchayat Union Office at Tharagampatti for counting the ballot paper (votes) in the counting centre's after the recent local poll. Hence, the above accused are liable to be prosecuted for the offence under Section 7 of the Prevention of Corruption Act, 1988.

4. The further case of the prosecution is that the first accused and the petitioner by corrupt and illegal means and by abusing the official position of the Block Development Officer and Manager in Kadavur Panchayat Union Office at Tharagampatti, Kadavur Taluk, Karur District, on 09.11.2011 between 12.10 p.m., and 12.30 p.m., at their office dishonestly obtained for themselves a pecuniary advantage of Rs.10,000/- and Rs.5,000/- from the defacto complainant in the presence of official witness Anburaja and thereby, committed an act of amounting to criminal misconduct by public servant.

5. In the course of the same transaction the first accused and petitioner demanded and obtained the bribe amount of Rs.10,000/- and Rs.5,000/-, who were by corrupt and illegal means and by abusing the official position as Block Development Officer and Manager, Kadavur Panchayat Union Office at Tharagampatti, Kadavur Taluk, Karur District, received the amount from the defacto complainant and thereby committed an act amounting to criminal misconduct by public servant.

6. Hence, the above said petitioner was liable to be prosecuted for the offence under Sections 13(2) r/w 13(1)(d) of the Prevention of Corruption Act 1988.



7. Thereafter, the respondent/complainant filed the final report and the same was taken on file by the learned Chief Judicial Magistrate, Karur, in Special C.C.No.24 of 2014.

8. Ultimately, after concluding the trial, the petitioner/accused was convicted and sentenced as follows:-

Accused	Provision under which convicted	Sentence
Mahalingam (second accused)	Section 7 of Prevention of Corruption Act	undergo two years rigorous imprisonment and to pay a fine of Rs.20,000/-, in default, to undergo one year rigorous imprisonment
	Section 13(2) r/w 13(1) (d) of Prevention of Corruption Act	Undergo four years rigorous imprisonment and to pay a fine of Rs.20,000/-, in default, to undergo one year rigorous imprisonment.

9. Challenging the above said conviction and sentence, the petitioner/first accused has filed a Criminal Appeal No.409 of 2021 along with the present miscellaneous petition seeking suspension of sentence and bail.

10. Heard Mr.B.Jameel Arasu, learned counsel for the petitioner and Mr.E.Antony Sahaya Prabahar, learned Additional Public Prosecutor appearing for the respondent/State.

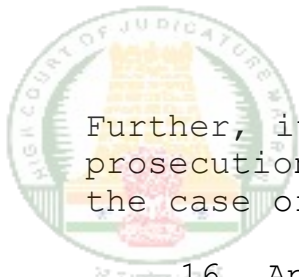
11. Mr.B.Jameel Arasu, learned counsel for the petitioner would contend that there was lot of contradictions found in the evidence given by P.Ws.1 to 3 and thereby, it cannot be concluded that the proceedings in respect to the trap stated by P.Ws.1 and 2 are all compliance with the necessary legal provision. He would further submit that there was no demand attributed against the defacto complainant during the relevant point of time.

12. It is the further submission made by the petitioner's counsel is that as of now, the petitioner was terminated from service and he is suffering without proper medicine in the Prison.

13. Per contra, Mr.E.Antony Sahaya Prabahar, learned Additional Public Prosecutor appearing on behalf of the respondent would submit that the evidence given by the witnesses examined on the side of the prosecution has clearly proved their case, beyond reasonable doubt.

14. The submissions made by the learned counsels appearing on either side are considered.

15. It is true that the evidence given by the prosecution witnesses in respect to the demand, needs detailed appraisal.



Further, it is necessary to find out that the evidence given by the prosecution witnesses in respect of the trap is sufficient to accept the case of the prosecution.

16. Apart from the same, the learned counsel appearing for the petitioner has raised substantial grounds and the same also needs detailed appraisal. More than that, the present appeal is not likely to be taken up in the near future. In such view of the matter, this Court is of the view that the petitioner/second accused is entitled to the relief of suspension of sentence and bail.

17. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner/second accused on the following conditions:-

(i) The petitioner shall execute a bond for a sum of Rs.25,000/- with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Chief Judicial Magistrate, Karur.

(ii) While executing the bond, the sureties shall furnish proof of identity and the sureties shall affix their photographs and left thumb impression in the surety bond and the trial Court shall obtain a copy of their Aadhar card or Voter ID or Driving license or Bank Pass Book to ensure their identity.

(iii) After the execution of the bond before the learned Chief Judicial Magistrate, Karur, Karur District, the petitioner shall appear before the respondent/police everyday at 10.30 a.m., for a period of four weeks and thereafter, the petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m., until the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

Sd/-
21/10/2021

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

To:-

<https://hcservices.courts.gov.in/hcservices/>
1. THE CHIEF JUDICIAL MAGISTRATE,
KARUR.



2. THE INSPECTOR OF POLICE,
VIGILANCE & ANTI-CORRUPTION,
TIRUCHIRAPPALLI,
TIRUCHIRAPPALLI DISTRICT.

3. THE SUPERINTENDENT, CENTRAL PRISON,
TRICHY.

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

ORDER
IN
CRL MP (MD) No.7905 of 2021
IN
CRL A (MD) No.409 of 2021
Date :21/10/2021

VB/VR/SAR-III/22.10.2021/5P/5C