



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

Monday, the First day of November Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL.M.P. (MD)No.9145 of 2021
in
CRL.A. (MD)No.457 of 2021

1 M/S.S.A.S. AND CO.,
REPRESENTED BY ITS PARTNERS,
S.MUSTAFA NAZAR @ S.M.NAZAR,

2 M/S.SHAHUL HAMEED ROWTHER AND SONS,
REPRESENTED BY ITS PARTNERS,
S.SHEIK MANSUR

3 S.MUSTAFA NAZAR @ S.M.NAZAR
4 S.SHEIK MANSUR

... APPELLANT / ACCUSED NOS.1,2,3,5

Vs

THE STATE REP.BY,
THE DEPUTY SUPERINTENDENT OF POLICE,
CENTRAL BUREAU OF INVESTIGATION,
ECONOMIC OFFENCE WING,
CHENNAI.
CRIME NO.3 OF 2011.

... RESPONDENT/ COMPLAINANT

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.08 of 2011 on the file of the Learned II Additional District Judge (CBI Cases), Madurai dated 27/09/2021 pending disposal of the instance Criminal Appeal.

Prayer in CRL.A. (MD)No.457 of 2021:

To call for the records in C.C.No.08 of 2011 and to set-aside the judgment passed therein dated 27.09.2021 on the file of the Learned IInd Additional District Judge (CBI Cases) Madurai, by allowing the appeal and to acquit the appellants.

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.C.M.ARUMUGAM, Advocate for the petitioner and of M/S.L.VICTORIA GOWRI, Assistant solicitor general of India on behalf of the Respondent, While admitting the Criminal Appeal, the court made the following order:-

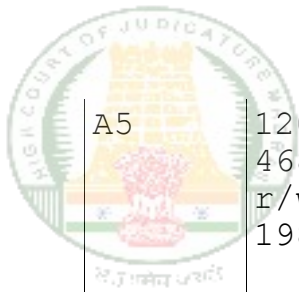


This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed on the petitioners by judgment dated 27.09.2021 passed in C.C.No.8 of 2011, on the file of the II Additional District Judge (CBI Cases), Madurai and to enlarge the petitioners on bail pending disposal of the appeal.

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2.The petitioners, who are the accused Nos.1,2,3 & 5 in C.C.No.8 of 2011 on the file of the II Additional District Judge, (CBI Cases), Madurai, were convicted and sentenced as follows on 27.09.2021:-

Accused	Provision under which convicted	Sentence
A1	Under Section 120-B r/w 420 and 471 r/w 468 IPC and Section 13(2) r/w 13(1)(d) of P.C.Act, 1988.	To pay a fine of Rs.1,00,000/-
	Under Section 420 IPC	to pay a fine of Rs.25,000/-
	under Section 471 r/w 468 IPC	To pay a fine of Rs.25,000/-
A2	Section 120-B r/w 420 and 471 r/w 468 IPC and Section 13(2) r/w 13(1)(d) of P.C.Act, 1988.	To pay a fine of Rs.1,00,000/-
	Section 420 IPC	to pay a fine of Rs.25,000/-
	Section 471 r/w 468 IPC	To pay a fine of Rs.25,000/-
A3	Section 120-B r/w 420 and 471 r/w 468 IPC and Section 13(2) r/w 13(1)(d) of P.C.Act, 1988	Sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.1,00,000/- in default to undergo six months rigorous imprisonment.
	Section 420 IPC	Sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.25,000/- in default to undergo six months rigorous imprisonment.
	471 r/w 468 IPC	Sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.25,000/- in default to undergo six months rigorous imprisonment.



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A5	120-B r/w 420 and 471 r/w 468 IPC and Section 13(2) r/w 13(1)(d) of PC Act, 1988	Sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.1,00,000/- in default to undergo six months rigorous imprisonment.
	Section 420 IPC	Sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.50,000/- in default to undergo six months rigorous imprisonment.
	Section 471 r/w 468 IPC	Sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.25,000/- in default to undergo six months rigorous imprisonment.

3.Challenging the above said conviction and sentence, the petitioner has filed Crl.A(MD) No.457 of 2021 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4.Heard Mr.C.M.Arumugam, learned counsel for the petitioner and Mrs.L.Victoria Gowri, learned Assistant Solicitor General appearing for the respondent/State.

5.It is submitted by the learned counsel for the petitioner that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. The learned counsel for the petitioner further submitted that suspension of sentence has already been granted by the trial court for the period of 30 days from the date of the judgment.

6.It is submitted by the learned Assistant Solicitor General that there are enough materials available on record against the petitioner as per the evidence adduced by the prosecution and there is no infirmity in the prosecution case and he strongly opposed to grant suspension of sentence.

7.This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

8.The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final



hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

9. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner on the following conditions:-

(i) The petitioners 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 II Additional District Judge (CBI Cases), Madurai.

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iii) The petitioners shall appear before the trial Court on the first working day of every month at 10.30 a.m until further orders 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 of 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/-

01/11/2021

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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 II ADDITIONAL DISTRICT JUDGE,
(CBI CASES), MADURAI.

2 THE DEPUTY SUPERINTENDENT OF POLICE,
CENTRAL BUREAU OF INVESTIGATION,
ECONOMIC OFFENCE WING, CHENNAI.



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CRL.M.P.(MD)No.9145 of 2021

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

ORDER
IN
CRL.M.P. (MD) No.9145 of 2021
in
CRL.A. (MD) No.457 of 2021
Date :01/11/2021

MK/PN/SAR.I/01.11.2021/5P/4C