



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twelfth day of January Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice V. BHARATHIDASAN

CRIMINAL MISCELLANEOUS PETITION NOS.344 AND 348 of 2022

IN CRL.A.NO.27 of 2022

S.GANESAN

[PETITIONER/APPELLANT
IN BOTH PETITIONS]

Vs

THE INSPECTOR OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
CHENNAI ZONE 4,
NANDHANAM.
(CR.NO.09/AC/2009/CC-V)

[RESPONDENT
IN BOTH PETITIONS]

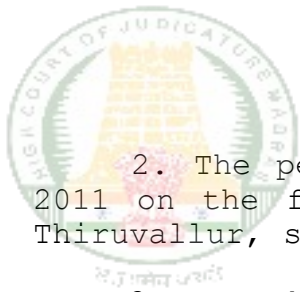
Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.27 of 2022 on the file of the High Court, the High Court will be pleased to

(i) Enlarge him on Bail by suspending the sentence imposed on him by the Chief Judicial Magistrate (Special Court), Tiruvallur in Special C.C.No.20/2011 by judgement dated 29.12.2021 [IN CRL.MP.NO.344/2022]

(ii) Suspend the fine amount of Rs.40,000 (Total amount) imposed on him by the Chief Judicial Magistrate (Special Court), Thiruvallur in Special CC.No.20/2011 by Judgement dated 29.12.2021, pending disposal of the above CRL.A.NO.27 of 2022 IN CRL.MP.NO.348/2022

Order : These petitions coming on for orders upon perusing the petitions and the Memorandum of Grounds in CRL.A.NO.27 of 2022 on the file of the High Court and upon hearing the arguments of M/S.R.VIJAYARAGHAVEN Advocate for the petitioner [IN BOTH PETITIONS] and of MR.C.E.PRATAP, Govt. Advocate (Crl. Side) [IN BOTH PETITIONS] 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 petitioner, who is the sole accused in Spl.C.C.No.20 of 2011 on the file of the Chief Judicial Magistrate (Special Court), Thiruvallur, seeks suspension of his sentence of imprisonment.

3. The case of prosecution in brief is that the appellant/accused was working as Firka Surveyor in the Taluk Officer, Ponneri. The defacto complainant, who was an advocate, approached him seeking for transfer of patta, for which, he has demanded a sum of Rs.2000/- as bribe. Since the complainant was unwilling to give bribe, he preferred a complaint. Based on his complaint, a trap was arranged, when the petitioner received amount, he caught red handed and he was arrested. Thereafter, a crime was registered and after full-fledged trial, the trial Court, by a judgment dated 29.12.2021, convicted the petitioner/accused and sentenced him as under:

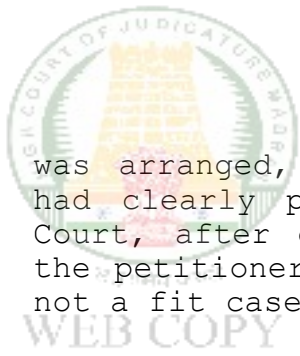
Conviction under Section	Sentence
7 and 13(1)(d) r/w Sec.13(2) of the Prevention of Corruption Act	Rigorous imprisonment for a period of four years and to pay a fine of Rs.20,000/- in default, to undergo simple imprisonment for three months.
13(1)(d) r/w 13(2) of the Prevention of Corruption Act	Rigorous imprisonment for a period of four years and to pay a fine of Rs.20,000/- in default, to undergo simple imprisonment for three months.

The Trial Court ordered the sentences to run concurrently.

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

5. Mr.R.Vijayaraghaven, learned counsel appearing for the petitioner would submit that, the petitioner was only working as Firka Surveyor and he is nothing to do with the transfer of patta. Due to some previous enmity, the defacto complainant, who was practising as an advocate, has given a false complaint and based on that, he has been convicted. According to the learned counsel, the demand and acceptance of bribe was not proved by the prosecution. However, the trial court without considering the same, convicted the appellant. Hence, he prayed to suspend the sentence imposed against him.

6. Mr. C.E.Pratap, learned Government Advocate (Criminal side) appearing for respondent opposed the petition and stated that, while the petitioner was working as Firka Surveyor demanded a sum of Rs.2000/- as illegal gratification for the purpose of transfer of patta and also to survey the property. Based on the complaint, a trap



was arranged, the petitioner caught red handed and the prosecution had clearly proved the demand and acceptance of bribe. The Trial Court, after considering all those materials, has rightly convicted the petitioner. Therefore, considering the gravity of offence, it is not a fit case for granting suspension of sentence.

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, this court of the view that some arguable points are involved in the appeal, and also considering the fact that, pending trial, the petitioner was on bail and he has no bad antecedents, I am inclined to suspend the substantive sentence of imprisonment alone.

9. Accordingly, pending appeal, substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that he 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 Chief Judicial Magistrate (Special Court), Thiruvallur, with further condition that he 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.

10. At this stage, learned counsel appearing for petitioner would submit that even though the petitioner/appellant is ready and willing to pay the fine amount, due to pandemic, the court is functioning only on the virtual hearing. Hence, he is not in a position to pay the fine amount. He has also submitted that the petitioner is ready and willing to pay the fine amount as directed by this Court.

11. Considering his submissions, the trial court is directed to receive the fine amount of Rs.40,000/- (Rupees forty thousand only) and release him on bail. Accordingly, the CrI.M.P.No.348 of 2022 stands dismissed.

-sd/-

12/01/2022

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 CHIEF JUDICIAL MAGISTRATE (SPECIAL COURT),
THIRUVALLUR.

2 THE INSPECTOR OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
CHENNAI ZONE 4, NANDHANAM.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1C.C. to M/S. R.VIJAYARAGHAVEN Advocate on payment of
necessary charges SR.No.641

Order
in
CRL MP.NOs.344&348/2022
in
CRL.A.27/2022
Date :12/01/2022

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

CSK 20/01/2022