



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Third day of March Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice G. CHANDRASEKHARAN

CRIMINAL MISCELLANEOUS PETITION No.3802 of 2022

IN CRL.A.NO.321 of 2022

K.GANESH

[PETITIONER]

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
CHENNAI-600 028.

[RESPONDENT]

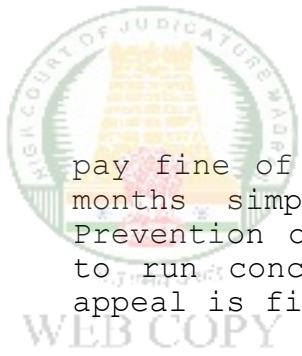
Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To suspend the sentence imposed on the petitioner by Hon`ble Special Court for the cases under Prevention of Corruption Act at Chennai, in vide Judgement in C.C.No.36 of 2011 dated 28.02.2022 and enlarge the petitioner on Bail pending disposal of the main Crl.A.No.321 of 2022.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S. S.XAVIER FELIX, Advocate for the petitioner, and of M/S.E.RAJ THILAK, Additional Public Prosecutor, on behalf of the Respondent, the court made the following order:-

This appeal is filed challenging the judgment of the learned Special Judge, Special Court for the cases under Prevention of Corruption Act, Chennai.

2. The appellant/petitioner was found guilty for committing the offences under Sections 7, 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988, and sentenced to undergo one year rigorous imprisonment and to pay fine of Rs.1,000/- in default to pay the fine, to undergo simple imprisonment for three months under Section 7; sentenced to undergo rigorous imprisonment for two years and to



pay fine of Rs.1,000/- in default to pay the fine, to undergo three months simple imprisonment under Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act. The substantive sentences are ordered to run concurrently. Challenging the said judgment, the criminal appeal is filed.

3. Learned counsel for the appellant/petitioner submitted that the very claim of the defacto complainant that he approached the appellant for his transfer on mutual basis with P.W.4 is not true. It is the submission that the defacto complainant was continuously absent during the period he alleged to have given transfer application dated 11.05.2010. Appellant was promoted as Conservancy Inspector on 25.02.2010. Appellant has no authority to initiate the transfer of P.W.2 who was working in Ward No.6. That apart, there is no material to show that the trap laying officer brought computer/laptop to the trap spot and prepared seizure mahazar on the spot. There is great suspicion as to whether the seizure mahazar was prepared on the spot as claimed by the prosecution. The trap was organised by Deputy Superintendent of Police and at the same time, the investigation officer, who is the Inspector, was also present. This is contrary to the guideline given in the vigilance manual. Most importantly, P.W.4, with whom the defacto complainant, claims that he had arranged for mutual transfer, he has not given any application for mutual transfer. Though, these factors were brought to the notice of the learned trial Judge, these vital facts were not considered by the learned trial Judge, who rendered the judgment of conviction and imposed sentence on the appellant/petitioner. Therefore, he prayed for suspension of sentence.

3. Learned Additional Public Prosecutor submitted that the evidence of P.W.2 and P.W.3 with regard to trap was not effectively challenged by the appellant. The respondent was able to prove the demand, acceptance and recovery of the bribe amount. However, he submitted that the learned trial Judge has suspended the sentence till 28.03.2022 and fine imposed on the appellant.

4. Considering the rival submission and also the arguable points raised by the learned counsel for the appellant, this Court is of the view that the appeal should be heard elaborately and it takes some time for taking the appeal for final hearing. In this view of the matter, the sentence imposed by the learned Special Judge for the cases under Prevention of Corruption Act, Chennai in C.C.No.36 of 2011 is suspended till the disposal of this appeal and the petitioner is ordered to be released on bail on condition that

i) the petitioner 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 Special Court for the cases under Prevention of Corruption Act, Chennai, within a period of two weeks from the date of receipt of copy of this order and also;



ii) the petitioner shall appear before the above said Court on the first working day of every English calendar month at 10.30 a.m, until further orders.

-sd/-

23/03/2022

WEB COPY

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 SPECIAL COURT FOR THE
CASES UNDER PREVENTION OF CORRUPTION ACT,
CHENNAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
CHENNAI.

+1 C.C. to M/S. S.XAVIER FELIX Advocate on payment of necessary
charges SR.NO.4394

Order

in
CRL MP.3802/2022
in
CRL A.321/2022

Date :23/03/2022

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TA-24/03/2022