



*CrL.M.P.No.8010 of 2022 in
CrL.A.No.603 of 2022*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CrL.M.P.No.8010 of 2022

in

CrL.A.No.603 of 2022

S.Raja

... Petitioner/Appellant

Vs.

**State Rep.by Inspector of Police,
SPE/CBI/ACB/Chennai.
(RC MA 1/2009 A 0011)**

...Respondent/Complainant

PRAYER: This Criminal Miscellaneous Petition has been filed under Section 389 (1) Cr.P.C, to suspend the sentence imposed on the petitioner/appellant herein passed by the learned Court of XII Additional Special Judge for CBI cases, Chennai – 104, by judgment dated 15.06.2022 made in C.C.No.35 of 2010 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.K.Shanker

**For Respondent : Mr.K.Srinivasan
Special Public Prosecutor (for CBI Cases)**

ORDER

The convicted sixth accused is the petitioner/appellant herein.

2. This petition is filed to suspend the sentence imposed on the



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petitioner/appellant herein passed by the learned Court of XII Additional

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Special Judge for CBI cases, Chennai – 104, by judgment dated 15.06.2022 made in C.C.No.35 of 2010 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal

3. The case of the prosecution is as follows:

(i) During the year 2008 the petitioner/appellant/A6 was a panelled supplier of materials to Southern Railways, entered into a criminal conspiracy with other 5 public servants namely A-1 Abdul Kadher, Divisional Mechanical Engineer, Basin Bridge, Chennai, A-2 Antony Sagayaraj, Asst. Divisional Mechanical Engineer, Basin Bridge, Chennai, A-3, Gunabalan, Senior Section Engineer, Basin Bridge, Chennai, A-4 Rajan, Head Clerk, Basin Bridge, Chennai, A-5 Mohan, Asst. Material Manager, Basin Bridge, Chennai, in the matter of renovation of flooring and wall panel of coaches of Kovai Express and caused wrongful loss of Rs.49,22,481/- to the Southern Railways.

(ii) Various charges involving violations of rules and procedures of railways in respect of purchasing of materials have been framed against A1 to A5 public servants. Apart from that the charge also alleges that A1 to A5 public servants had purchased the materials on 123 occasions from A6 after



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issuing 123 purchase orders with higher price which caused wrongful loss to Southern Railways. Among 124 purchase orders 74 purchase orders were issued to M/s.V.V.Tech, 20 purchase orders were issued to M/s.Vijaya Vigneswara Traders, 17 purchase orders were issued to M/s.Reflees Products, 11 purchase orders were issued to M/s.Kiran Enterprises and 1 purchase order was issued to M/s.Win Minds. All the above 123 purchase orders are for the value of less than Rs.50,000/- for each. The prosecution alleges all the above 5 firms are run by the petitioner/accused/A6 and his family.

4. The trial Court viz., learned XII Additional Special Judge for CBI Cases, Chennai, examined PW1 to PW42 and marked Ex.P1 to Ex.P313 and material objects viz., M.O.1 to M.O.10. On the side of the defense, DW1 and DW2 were examined and Ex.D1 to D14 were marked. The trial Court has acquitted A1 to A5 of all charges and convicted the present petitioner/appellant/A6 only in respect of Sections 468 and 471 r/w 465 of IPC and sentenced for four years and one year, respectively.

5. The learned counsel for the petitioner/appellant would contend that when the Sessions Court has acquitted public servants A1 to A5 of all charges, as against A6 on the same set of facts and same set of evidences, ought to have acquitted the petitioner/appellant/A6 and further stated that



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under Sections 120-B, 420, 467 of IPC and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, has also been acquitted and further relied upon the evidence of PW18, PW33 and PW10.

6. The learned Special Public Prosecutor for CBI cases filed counter statement and vehemently opposed for the grant of suspension of sentence on the ground that the Court has compared the signature found in the relevant document and rendered a finding by exercising the powers under Section 73 of the Indian Evidence Act and also the fact that the accused's brother-in-law has disowned the material document.

7. After hearing the submissions of both the parties and also taking note of Ex.P28, which came into force on 27.05.2008 and Ex.P58, this Court finds that the finding rendered by the Sessions Court as to fixing the liability upon the accused, is an arguable point and the finding of the trial Court with regard to the partnership as per Ex.P28, also needs reconsideration in the light of the submissions made by the learned counsel for the petitioner/appellant and hence, I find that there is an arguable point involved in it and further taking into consideration the period of incarceration, this Court is of the view that the substantive sentences of imprisonment alone can be suspended on certain conditions.



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8. Accordingly, till the disposal of the Criminal Appeal, the substantive sentences of imprisonment alone is suspended and the Petitioner/accused-6 is ordered to be enlarged on bail, on the following conditions:-

- i. The Petitioner/Accused-6 shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand Only), with two sureties for a like sum to the satisfaction of the learned Court of XII Additional Special Judge for CBI Cases, Chennai.
- 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 and mobile numbers to ensure their identity; and
- iii. The Petitioner/accused-6 shall report before the said Court on the first working day of every English Calendar month at 10.30 a.m., till the disposal of the appeal.

15.07.2022

ars
Internet:Yes

Note: Issue order copy today.

1. The Inspector of Police,
SPE/CBI/ACB/Chennai.
2. The Superintendent of Prison,
Central Prison, Puzhal, Chennai.
3. The Public Prosecutor,
High Court, Madras.



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RMT.TEEKAA RAMAN.J.,

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