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Crl.MP..11134 of 2022 in Crl.A.829 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2022

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THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.M.P.No.11134 of 2022

in

Crl.A.No.829 of 2022

G.Sampath, M/Aged 71 years,
S/o.Gopalsami Pillai,
Assistant Secretary (Tenaments),
i/c Plots, Tamil Nadu Slum Clearance Board,
Chennai 600 005. ... Petitioner/Appellant

Vs.

State Rep. by
The Additional Superintendent of Police,
Vigilance and Anti-Corruption,
City Special Court – I,
Chennai.
Crime No.01/AC/2007. ...Respondent/Respondent

PRAYER: This Criminal Miscellaneous Petition filed under Section 389
(1) of Criminal Procedure Code to suspend the order of conviction passed
by the Special Court for the cases under Prevention of Corruption Act at
Chennai dated 04.07.2022 and made in C.C.No.121 of 2011, pending

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disposal of the above Appeal.

For Petitioner : Mr.N.R.Elango,
Senior counsel
for Mr.G.Ravisankar

For Respondents : Mr.S.Udaya Kumar
Government Advocate (Crl. Side)

ORDER

This Petition has been filed to suspend the order of conviction passed by the Special Court for the cases under Prevention of Corruption Act at Chennai dated 04.07.2022 in C.C.No.121 of 2011, pending disposal of the above Appeal.

2.The Petitioner/A1 in C.C.No.121 of 2011, before the learned Special Judge, (Special Court for the Cases under Prevention of Corruption Act), Chennai, was convicted and sentenced as follows:

“3.For the offence committed u/s.7 of Prevention of Corruption Act, 1988 the Accused Officer 1 is sentenced to undergo Rigorous imprisonment for one year and shall pay a fine of Rs.1,000/- and in default to undergo simple imprisonment for 3 months.



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4.For the offence committed u/s.13(2) r/w13(1)(d) of Prevention of Corruption Act the Accused Officer 1 is sentenced to undergo rigorous imprisonment for two years and shall pay a fine of Rs.1,000/- in default to undergo simple imprisonment for 3 months.”

3.The case of the prosecution is that one Ponniammal along with the complainant approached the Petitioner/Accused No.1, who was the Assistant Secretary at TNSCB on 17.04.2006 for name changing in the sale deed, as her husband passed away and her two daughters also gave consent to the same. In that process, during last week of December 2006 the Petitioner/Accused 1, demanded a sum of Rs.10,000/- for issuing the said document, when the complainant expressed the inability to pay, the same was reduced to Rs.5,000/-. On 12.01.2007, Accused directed the complainant to hand over the bribe amount to Accused No.2 @ about 06.45 pm at the TNSCB office, Chennai. On the same day i.e., 12.01.2007, Complainant/PW2 gave a complaint to the Vigilance at about 02.00 pm and after the registration of FIR, trap was organised, in the presence of PW11 S.R.Srinivasan and K.Vivekanandan (Government witnesses) @ 6.45 pm at

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the office of the Accused (TNSCB), Chennai and Complainant/PW2 handed over the bribe amount to Accused No.2. Thereafter, the Accused was arrested for the alleged offences under Section 7 and 13(2) r/w13(1)(d) of the Prevention of Corruption Act 1988.

4.The learned senior counsel appearing for the Petitioner/A1 would submit that PW2/Defacto Complainant turned hostile. With regard to the alleged demand, it is projected as if it is a fees to be paid to the Government. Eventhough PW2 turned hostile and not supported the case of the prosecution, the Court below taken into account the evidence of the shadow witness/PW2 in supporting the case, resulted in acquittal of A2 who is said to have been received the tainted amount. A1 has not received the amount. There are arguable points available in the Appeal and that the Petitioner herein has got a fair chance of succeeding the Appeal and would pray that the substantive sentence imposed against the Petitioner may be suspended.

5.The learned Government Advocate, has raised objections for



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suspending the sentence.

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6.Considering the facts and circumstances of the case, submissions of the learned counsels on either side and also considering the fact that there are arguable points in appeal, this Court is inclined to suspend substantive sentence of imprisonment alone on certain conditions.

7.Accordingly, till the disposal of the Criminal Appeal, the substantive sentence of imprisonment alone is suspended and the Petitioner/A1 is ordered to be enlarged on bail, on the following conditions:-

- i. The Petitioner shall execute separate bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only), with two sureties, each for a like sum to the satisfaction of the learned Special Judge, (Special Court for the Cases under Prevention of Corruption Act), Chennai.



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- ii. The Petitioner shall report before the said Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

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Note: Issue order copy on 01.08.2022

To

1.The learned Special Judge,
(Special Court for the Cases under
Prevention of Corruption Act),
Chennai .
(C.C.No.121 of 2011)

2.The Public Prosecutor,
High Court, Chennai 104.



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RMT.TEEKAA RAMAN, J.,

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