



Crl.M.P.No.12493 of 2022
in Crl.A.No.894 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2022

CORAM:

THE HON'BLE MR.JUSTICE **M. NIRMAL KUMAR**

Crl.M.P.No.12493 of 2022
in
Crl.A.No.894 of 2022

M.C.Panneer Selvam

... Petitioner/Accused

Vs.

State rep by
The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Special Investigation Cell,
Chennai – 28.
(Crime No.25/AC/2009/HQ)

... Respondent

PRAYER: Criminal Miscellaneous Petition has been filed under Section 389 (1) of Cr.P.C to suspend the sentence imposed on the petitioner/appellant by the learned Special Court for the cases under Prevention of Corruption Act at Chennai made in C.C.No.7 of 2011 dated 15.07.2022 and enlarge the petitioner on bail pending disposal of the Criminal Appeal on the file of this Court.

For Petitioner : Mr.L.Mahendran

For Respondent : Mr.S.Udhayakumar
Government Advocate (Crl. Side)

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner/accused, seeking suspension of sentence of imprisonment imposed by



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the learned Special Judge, Special Court for the Cases under Prevention of Corruption Act, Chennai by judgment dated 15.07.2022 in C.C.No.7 of 2011 and enlarge the petitioner/appellant on bail pending disposal of the above Criminal Appeal.

2. The petitioner/appellant herein is the accused in C.C.No.7 of 2011 on the file of Special Court for the Cases under Prevention of Corruption Act, Chennai. He was found guilty for the offences punishable under Sections 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 and he has been convicted and sentenced as under:

Petitioner /Accused	Conviction	Sentence
Petitioner/Accused	Sections 7 of the Prevention of Corruption Act, 1988.	To undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/-, in default to undergo simple Imprisonment for three months.
	Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988.	To undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.1,000/-, in default to undergo simple Imprisonment for three months.
The sentences are directed to run concurrently		
Total fine imposed against the petitioner/Accused is Rs.2,000/-		

3. Challenging the above conviction and sentence, the petitioner/accused



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has filed Crl.A.No.894 of 2022 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4.The contention of the petitioner is that the petitioner was working as Electrical Pump Man attached to Depot 120, Area VIII, Chennai Metropolitan Water Supply and Sewerage Board (CMWSSB). The de-facto complainant/P.W.2 applied for Water and Sewerage connection. He had approached one T.C.Ranjan, Junior Engineer of the said Depot and submitted his application. Thereafter, the petitioner was asked to visit and examine the place to find out the earth work and other works to be done inside the compound as well as outside the compound and the materials needed and also to find out whether the connection needs road cut permission and other aspects. Accordingly, the petitioner visited the house of P.W.2/de-facto complainant on 07.07.2009. At that time, it was found that there was no road cut permission available, hence, he asked P.W.2 to get road cut permission. Thereafter, P.W.2 was unable to get road cut permission and hence, used this trap to get his connection done. For this reason, P.W.2 had projected a case, as though the petitioner had made demand on behalf of T.C.Ranjan and received the bribe amount. In this case, charge sheet has been laid against the petitioner alone and



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T.C.Ranjan, Junior Engineer and Ramamoorthy, Broker have not been arrayed

as accused for the reasons best known. The said T.C.Ranjan and Ramamoorthy have been dropped from the final report. The said Ramamoorthy died during investigation. As regards T.C.Ranjan, though he was cited as witness, he was not examined. The petitioner has got no authority to grant or give connection, it is only the Junior Engineer of CMWSSB. The petitioner's work is to oversee the pumping work. Other than that the petitioner has got nothing to do with the water and sewerage connection. It is an admitted case of the prosecution that on 08.07.2009, the petitioner had gone to P.W.2's house. At that time, if petitioner had the intention to receive the money, he would have received the money from the de-facto complainant. Thereafter, on 09.07.2009 again he visited the de-facto complainant's house. At that time, the money was thrust on the petitioner and recovery has been shown as though the petitioner received the bribe amount and kept the same in his pant pocket. P.W.3, who is the accompanying and official witness gave the version as required by the prosecution. P.W.4, P.W.5 and P.W.7 are the officials from CMWSSB, who have clearly stated about the procedure in giving water and sewerage connection. Their evidence is that the petitioner has got no power or authority to give water or sewerage connection. Their evidence is positive in favour of



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the petitioner. As regards P.W.8 and P.W.9, the Nodal officers from Airtel Limited and MTS Limited, it is seen that except the call details, there is nothing more. It is usual that a person, who seeks connection, calls anyone in CMWSSB office to find out the status of their application and other particulars. Calling and speaking to P.W.2 alone would not be sufficient, it can be only attending circumstances and nothing more. The Trap Laying Officer, in a haste manner without confirming to the procedure, finding and studying the antecedents of the petitioner had laid the trap. His intention is only to succeed in the trap and not to record the actual proceedings. Learned counsel for the petitioner submitted that the petitioner has paid the fine amount of Rs.2,000/- and the Lower Court has suspended the sentence of the petitioner till 12.09.2022. Further, the petitioner has arguable points and fair chance of success in this appeal. Thus, he prayed for Suspension of Substantive Sentence of Imprisonment imposed on the petitioner till the disposal of the appeal.

5. The learned Government Advocate (Crl. Side) appearing for the respondent/Police submitted that in this case P.W.1 is the sanctioning authority, who had granted sanction. P.W.2 is the decoy witness and P.W.3 is the accompanying witness. P.W.2 had clearly stated about the demand made by the



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petitioner using the name of T.C.Ranjan. The demand acceptance and recovery has been clearly spoken by P.W.2 and P.W.3. P.W.3 is the official witness. He has got nothing against the petitioner. P.W.4, P.W.5 and P.W.7 are the other witnesses from CMWSSB, who had stated about the procedure. The petitioner having no authority to give water and sewage connection, had projected himself as the person, who can facilitate water and sewage connection and received the bribe amount. P.W.10 is the Scientific Officer in Forensic Science Department, who conducted the phenolphthalein test. From his report it is evident that phenolphthalein test turned positive on the petitioner's pant pocket. Accordingly, he objected for the suspension of sentence of the petitioner. He would further submit that the sentence imposed on the accused have been suspended by the trial court till 12.09.2022.

6. Before the trial Court, on the side of the prosecution 12 witnesses examined as P.W.1 to P.W.12 and marked 23 documents as Exs.P1 to P23 and M.O.1 to M.O.8 marked. On the side of the defence, D.W.1 examined and marked 9 documents as Exs.D1 to D9. Trial Court considering the evidence and materials produced by the prosecution, convicted the petitioner.



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7. It is seen that the petitioner is only a Pump operator in CMWSSB. One T.C.Ranjan/Junior Engineer of CMWSSB is the concern person to give water and sewage connection. Further, the investigating officer in his cross examination stated as regards T.C.Ranjan that his case has been referred to departmental action. The investigation officer cannot have two different yardstick, one against the petitioner and another against T.C.Ranjan. In this case, the said T.C.Ranjan though shown as witness, not examined.

8. Considering the facts and circumstances of the case and finding *prima facie* case in favour of the petitioner and also taking note of the fact that there are arguable points involved in this appeal and it would take some time for the appeal to be taken up for final hearing, this Court is inclined to suspend the Substantive Sentence of Imprisonment alone till the disposal of the appeal.

9. Accordingly, the Substantive Sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the appeal and the petitioner is ordered 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 Special Judge, Special Court for the



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Cases under Prevention of Corruption Act, Chennai.

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10.Further, the petitioner is directed to appear before the trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

08.09.2022
(2/2)

rsi

Note: Issue order copy on 12.09.2022

To

- 1.The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Special Investigation Cell,
Chennai – 28.
- 2.The Special Judge,
Special Court for the Cases under
Prevention of Corruption Act,
Chennai.
- 3.The Public Prosecutor,
High Court, Madras.

M. NIRMAL KUMAR, J.



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