



Crl.MP.No.14412 of 2022 in Cr.A.No.1072 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.M.P.No.14412 of 2022

and

Crl.A.No.1072 of 2022

Loganathan (68/2022)
S/o.Swaminathan,
451/2, 4th Street,
Victoria Colony,
Eswari Nagar, Thanjavur.

... Petitioner

Vs.

The State
Represented by
Inspector of Police,
Nagapattinam Q Branch, CID,
Nagapattinam District.
(Crime No.1/2015)

... Respondent

PRAYER: This Criminal Original Petition is filed under Section 389 (1) of Cr.P.C., to suspend the sentence passed by the learned Chief Judicial Magistrate, Thiruvarur and enlarge the Petitioner on bail in Spl.CC.No.2/2015 dated 29.07.2022 until the disposal of the Appeal.



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For Petitioner : Mr.V.S.Badrinath

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

ORDER

This Criminal Miscellaneous Petition has been filed by the Petitioner/Accused 9, seeking suspension of sentence of imprisonment imposed by the learned Chief Judicial Magistrate/Special Judge, Thiruvarur District, by judgment dated 29.07.2022 made in Spl.C.C.No.2 of 2015 and enlarge the Petitioner/Appellant on bail, pending disposal of the above Criminal Appeal.

2.The Petitioner/Appellant is the accused in Spl.C.C.No.2 of 2015 on the file of the Special Court/Chief Judicial Magistrate, Thiruvarur. He was found guilty for the offences punishable under Sections 120(B), 468 & 471 of I.P.C., Sections 13(1)(d) r/w 13(2) of the Prevention of Corruption Act and Section 12(2) of the Passports Act. He has been convicted and sentenced as under:



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Petitioner/ Accused	Conviction	Sentence
Petitioner/ Accused 9	Sections 120(B) of I.P.C.	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.
	Section 12(2) of the Passports Act	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 two months.
	Sections 468, 471 of I.P.C.	For each offence to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.1,000/-, in default, to undergo simple Imprisonment for three months.
	Section 13(1)(d) r/w Section 13(2) 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 two months.
The sentences are directed to run concurrently		

3.Challenging the above conviction and sentence, the Petitioner/
Accused 9 has filed the Appeal along with this instant Miscellaneous
Petition seeking suspension of sentence and enlarge him on bail.

4.The case of the prosecution is that all the 11 accused in this case
are known to each other and they conspired in getting Indian passports to



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Srilankan Nationals (A4, A5, A10) by producing forged documents. A1 to A3 are close associates and A1-Indirajith is the resident of Kooppachikottai village, who was doing the illegal business of getting passports for Srilankan nationals by producing forged documents at Passport Application Collection Centre in the District Collector Office, Thiruvarur. A2-Ayya @ Sundarrajan is the resident of Padappaikadu village, who was the close associate of A1, assisting him for his illegal business of getting fake passports. A3-Prabhakaran is the resident of Thiruppur and brother-in-law of A1 and he was also assisting the illegal business of A1. A4, A5 and A10 are the Srilankan nationals to whom A1, A2 and A3 had obtained fake passports by producing forged documents. A6-Ashokan is the maternal uncle of A1 and resident of Chennai. On his instigation and direction, A1 was doing illegal business of getting fake passports. A7-Ravichandran worked as D1 Assistant at District Police office (District Crime Records Bureau), Thiruvarur and attended the duty of police verification of the applications for issuing Indian passports received from Regional Passport office, Tiruchirappalli, who assisted illegally to A1 to A3 without entering the details of the applications in the register maintained for that purpose and



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not handing over the applications to concerned Police Station and he directly handed over the applications to A8-Ashokkumar, Data entry operator at District Police office (District Crime Records Bureau), Thiruvarur, and in turn, A8 after receiving the applications from A7, handed over the same to A9-Loganathan, who was working as Special Sub Inspector of Police, Paravakkottai Police Station to affix the signatures of the concerned Inspector and other police personnel. After forging their signatures in the applications again, he handed over to A8. After receiving the applications from A9, A8 would further handed over to A7. A11-Maharajan was working as a Postman of Alangottar village, who delivered the Indian Passports obtained in the fictitious names by producing fake documents and A11 has prepared false records as if it was delivered to the applicant addresses. Final report was filed before the Chief Judicial Magistrate, Thiruvarur. After filing of the final report, the accused were furnished with the copy of final report and were questioned as to their involvement in the offences. In this case, A1, A4, A5 and A10, absconded and proceedings initiated under section 82 Cr.P.C., before the learned Chief Judicial Magistrate, Thiruvarur to proclaim as proclaimed offenders and the



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learned Chief Judicial Magistrate, Thiruvarur passed an order dated 21.08.2018 in CMP No.417 of 2019 and proclaimed A1, A4, A5 and A10 as proclaimed offenders and the case against them was split up and the split up case No.1 of 2017 is pending on the file of the Chief Judicial Magistrate Court, Thiruvarur. During the trial, A10-Kajan was caught and produced before the learned Chief Judicial Magistrate, Thiruvarur. The case No.1 of 2017 is assigned to him and a separate case No.1 of 2022 is assigned to A1, A4 and A5. The trial against them have been proceeding separately before the learned Chief Judicial Magistrate, Thiruvarur and the same are pending. The trial had been conducted for A3, A6, A7, A8, A9 and A11.

5.Before the trial Court, on the side of the prosecution 45 witnesses examined as P.W.1 to P.W.45 and marked 90 documents as Exs.P1 to P90 and 6 material objects were marked as M.O.1 to M.O.6. On the side of the accused, 3 witnesses examined as D.W.1 to D.W.3 and marked 3 documents as Exs.D1 to D3.



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6.The contention of the learned counsel for the Petitioner/A9 is that there is no evidence to show that this Petitioner/Appellant has received any amount or any gratification to substantiate the conviction under Sections 13(1)(d) r/w.13(2) of Prevention of Corruption Act. Further the learned counsel for the Petitioner submitted that at the time of occurrence, the Petitioner/Appellant was working in Chennai and the trial Court ought not to have convicted him under Sections 468 & 471 of IPC. The Petitioner/Appellant is not passport issuing authority and therefore, the conviction in respect of Section 12(2) of Passport Act, 1967.

7.Further it is submitted that in this case, the passport in the name of Murali is a forged passport. No such person in the name of Murali is available and the passport was handed over to A10-Kajan. The photographs found in the passport is of Kajan/A10 but other particulars found in the passport pertains to fictitious person, namely, Murali. During Investigation though the ration card and other documents of Murali were produced, the same has not been proved in the manner known to law. In this case, the investigating officer collected majority of the documents from another



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investigating officer, who registered a case in 'Q' Branch, Pudukottai.

Though he was examined as P.W.43, he gave certified photostat copies of the document, which cannot be accepted. The prosecution for the reasons best known, have not collected the documents from the Court with proper authorisation. All these documents have been marked subject to objection. In the judgment, there is no reference and answer to the objections raised by the petitioners. In this case, no Indian Passport in the name of Srilankan nationals/A4, A5 and A10 have been prepared or seized. Further submitted that the trial Court merely gone on surmises and conjectures, not weighed the evidence in its proper form and convicted the petitioners. The petitioner was on bail during investigation as well as during trial. Learned counsel further submitted that the petitioner has paid the fine amount and the Lower Court has suspended the sentence of the petitioner till 08.09.2022. Thereafter, the Petitioner/Appellant surrendered and now is confined in Central Prison, Trichy. Further, the petitioner has arguable points and fair chance of success in this appeal. Thus, the learned counsel for the Petitioner prayed for Suspension of Substantive Sentence of Imprisonment imposed on the Petitioners till the disposal of the Appeal.



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8.Learned Government Advocate (Crl.Side) appearing for the respondent/Police submitted that all the 11 accused in this case are known to each other and they were engaged in getting Indian passports to Srilankan Nationals (A4, A5, A10) by producing forged documents. A1 to A3 are close associates and A1 Indirajith is the resident of Kooppachikottai village, who was doing the illegal business of getting passports for Srilankan nationals by producing forged documents at Passport Application Collection Centre in the District Collector Office, Thiruvarur. A6 is the maternal uncle of A1, who had contacts with the Srilankan nationals. He had referred the Srilankan nationals to A1 to A3 and thereby actively participated in the above offence. A7, who is D1 Assistant at District Police office (District Crime Records Bureau), Thiruvarur and was assigned duty of police verification of the applications for issuing Indian passports received from Regional Passport office. A7 had conspired with A1 to A3, without entering the applications details in the register maintained for that purpose and handed over the same directly to A8-Data entry operator, who handed over the same to A9-Special Sub Inspector of Police, Paravakkottai Police



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Station to affix the signature of the concerned Inspector and thereafter again handed over the application to A8, who handed over the same to A7. Thus, all the accused have actively participated in preparation of forged documents, facilitated A1, A2, A3 and A6 to get forged passport in the name of A4, A5 and A10. In this case A10 has also given a statement under Section 164 Cr.P.C before the learned Judicial Magistrate, Nannilam, whereby admitting his role as well as other accused. Further A6 was running a guest house in Chennai, wherein, Srilankans used to stay regularly. Thus, all the accused have conspired together and committed the offence, which have been clearly spoken to bind witnesses in this case. Accordingly, the learned Government Advocate objected for the suspension of sentence of the Petitioner.

9. On the evidence and materials produced, the trial Court, by a well reasoned judgment, convicted the petitioners. The points raised by the petitioners herein have already been raised before the trial Court. The trial Court negatived the same. Further, it is submitted that during investigation and trial, the Petitioners was on bail. Further, the trial Court initially



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suspended the sentence of the petitioners till 26.08.2022 and then extended upto 08.09.2022. Now the Petitioner surrendered and confined in Central Prison, Trichy. On perusal of the materials, it is seen that the Appeal is statutory appeal. The Petitioner has got valid grounds in the Appeal. Further the Petitioners was on bail during investigation and during trial.

10.Considering the above facts and circumstances of the case 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.

11.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 Chief Judicial Magistrate/Special Judge, Thiruvavarur District.



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12.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.

23.09.2022
(2/2)

Internet : Yes/No
Index : Yes/No
Speaking/Non-speaking order

sai

Note: Issue order copy today (23.09.2022)

To

1.The learned Chief Judicial Magistrate,
Thiruvarur.

2.The Superintendent of Prison,
Central Jail,
Trichy.

3.The Public Prosecutor,
High Court, Madras.

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M.NIRMAL KUMAR, J.

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