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Crl.M.P.Nos.14149, 14150, 14152 & 14154 of 2022
in Crl.A.Nos.966, 930, 969 & 928 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2022

CORAM:

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

Crl.M.P.Nos.14149, 14150, 14152 & 14154 of 2022
in
Crl.A.Nos.966, 930, 969 & 928 of 2022

S.Prabakaran	... Petitioner/Accused-3 in Crl.M.P.No.14149/2022
S.Ashokan	... Petitioner/Accused-6 in Crl.M.P.No.14150/2022
1.Ravi @ Ravichandren 2.Asokkumar	... Petitioners/Accused-7 & 8 in Crl.M.P.No.14152/2022
K.Maha Rajan	... Petitioner/Accused-11 in Crl.M.P.No.14154/2022

Vs.

The State
Rep by the Inspector of Police,
Nagapattinam Q Branch, C.I.D.,
Nagapattinam.
(Crime No.1/2015)

... Respondent in all Crl.M.Ps

PRAYER in Crl.M.P.No.14149 of 2022: Criminal Miscellaneous Petition has been filed under Section 389 (1) of Cr.P.C to suspend the sentence imposed in Spl.S.C.No.2 of 2015 CNR No.TVTV02-000291-2015 dated 29.07.2022 by the learned Chief Judicial Magistrate, Thiruvavur and enlarge the petitioner/Accused 3 on bail pending disposal of the above Criminal Appeal.



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PRAYER in Crl.M.P.No.14150 of 2022: Criminal Miscellaneous Petition has been filed under Section 389 (1) of Cr.P.C to suspend the sentence dated 29.07.2022 awarded against the petitioner in Spl.S.C.No.2 of 2015 on the file of the learned Chief Judicial Magistrate, Thiruvapur and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

PRAYER in Crl.M.P.No.14152 of 2022: Criminal Miscellaneous Petition has been filed under Section 389 (1) of Cr.P.C to suspend the sentence passed against petitioners/appellants in Special C.C.No.2 of 2015 dated 29.07.2022 by the learned Chief Judicial Magistrate, Thiruvapur and enlarge the petitioners on bail pending disposal of the accompanying Criminal Appeal.

PRAYER in Crl.M.P.No.14154 of 2022: Criminal Miscellaneous Petition has been filed under Section 389 (1) of Cr.P.C to suspend the sentence imposed on the petitioner/appellant in Special C.C.No.2 of 2015 by the learned Special Court/Chief Judicial Magistrate, Thiruvapur, Thiruvapur District by its judgment dated 29.07.2022 and enlarge the petitioner/appellant on bail pending Crl.A.No.928 of 2022.

For Petitioner in Crl.M.P.No.14149/2022	: Mr.C.Mutharasu
For Petitioner in Crl.M.P.No.14150/2022	: Mr.R.Karunakaran
For Petitioner in Crl.M.P.No.14152/2022	: Mr.P.Nagaraju
For Petitioner in Crl.M.P.No.14154/2022	: Mr.M.Palanivel
For Respondent in all Crl.M.Ps.	: Mr.S.Udhayakumar Government Advocate (Crl. Side)



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COMMON ORDER

These Criminal Miscellaneous Petitions have been filed by the petitioners/Accused 3, 6, 7, 8 & 11, 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 petitioners/appellants on bail pending disposal of the above Criminal Appeals.

2. The petitioners/appellants herein are the accused in Spl.C.C.No.2 of 2015 on the file of the Special Court/Chief Judicial Magistrate, Thiruvarur. As regards A3 and A6 is concerned, they were found guilty for the offences punishable under Sections 120(B) of I.P.C. and 12(2) of the Passports Act. As regards A7, A8 and A11, they were 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. They have been convicted and sentenced as under:

Petitioner /Accused	Conviction	Sentence
Petitioner/A3, A6, A7, A8 & A11	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 (each accused)
Petitioner/A3, A6,	Section 12(2) of the	To undergo rigorous



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Petitioner /Accused	Conviction	Sentence
A7, A8 & A11	Passports Act	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 (each accused)
Petitioner/A7, A8 & A11	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 (each accused)
Petitioner/A7, A8 & A11	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 (each accused)
The sentences are directed to run concurrently		
Total fine imposed against the petitioner/Accused is Rs.24,000/-		

3. Challenging the above conviction and sentence, the petitioners/accused 3, 6, 7, 8 & 11 have filed Crl.A.Nos.966, 930, 969 & 928 of 2022, respectively, along with these instant miscellaneous petitions seeking suspension of sentence and bail. The earlier suspension petitions were dismissed by this Court on 26.08.2022.

4. The case of the prosecution is that all the 11 accused in this case are



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known to each other and they conspired 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. 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 not handing over the applications to concerned Police Station and he directly handed over the applications to A8-Ashokkumar, Data entry



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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 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



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Magistrate, Thiruvavarur. 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, Thiruvavarur 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.

6.(i)The contention of the learned counsel for the petitioner/A3 is that there is no evidence to show the alleged involvement of A3 in any manner in this case. The only allegation against A3 is that A3 being an employee of A1 have prepared the forged documents and submitted the same before the Thiruvavarur District Passport Cell. Hence, sought for suspension of sentence.

(ii) Learned counsel for the petitioner/A6 contended that based on the confession statement of A1, which was said to have been given in another case, the petitioner/A6 has been convicted in this case. Admittedly, the case against



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A1 has been split up in C.C.No.2 of 2022, which is still pending trial. In view of the same, the confession of A1 cannot be acted upon invoking Section 30 of the Evidence Act, since it is a different case. Further, the alleged recovery in this case is said to have been made by P.W.44/Investigating Officer, in a Petrol Bunk, near Thiruvarur Police Station. P.W.25 is the mahazar witness given contradictory version. The Srilankan nationals, namely, A4, A5 & A10 have applied for forged passport. A6 is the relative of A1, who is running travel agency. A6 said to have conspired with the other accused and introduced them to A1 to get the Indian Passports fictitiously on fake documents. Though the prosecution has stated that one of the passport was handed over to fictitious person Murali, who was also not examined. Hence, sought for suspension of sentence.

(iii) Learned counsel for the petitioners/A7 & A8 contended that A7 is D1 Assistant attached to the District Police Office (DCB). A8 is the Data Entry Operator. In the conspiracy with other accused, A7 used to collect the application forms of Srilankan nationals and thereafter process the same in the District Police Office and for the purpose of police verification they sent it to A9, who was the then Special Sub Inspector of Police at Paravakkottai Police Station, who without verification and enquiry with regard to the address and status of the passport applicants, sent the same to A7 and A8, The same was



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forwarded to the passport authorities. The passport authorities have issued passport in the name of the fictitious persons. There is no document to show that A7 & A8 have created document and there is no allegation that they forged documents. Hence, sought for suspension of sentence.

(iv) Learned counsel for the petitioner/A-11 contended that the petitioner being the post man alleged to have created documents as though the passport has been delivered to the applicant. The petitioner discharged his duty in accordance with law. He delivered the post to the person and never committed any offence as alleged by the prosecution. Hence, sought for suspension of sentence.

(v) 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 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



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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 petitioners were on bail during investigation as well as during trial. Learned counsels further submitted that the petitioners have paid the fine amount and the Lower Court has suspended the sentence of the petitioners till 26.08.2022. Further, the petitioners have arguable points and fair chance of success in these appeals. Thus, they prayed for Suspension of Substantive Sentence of Imprisonment imposed on the petitioners till the disposal of the appeals.

7. 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



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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 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



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for the suspension of sentence of the petitioners.

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8. It is submitted by the learned counsel for the petitioners that the petitioners have now surrendered and are confined in Central Prison, Trichy, which is also confirmed by the learned Government Advocate.

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 were on bail. Further, the trial Court initially suspended the sentence of the petitioners till 26.08.2022. Now the petitioners have surrendered and confined in Central Prison, Trichy. On perusal of the materials, it is seen that the appeal is statutory appeal. The petitioners have got valid grounds in the appeal. Further the petitioners were 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



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Court is inclined to suspend the Substantive Sentence of Imprisonment alone till the disposal of the appeals.

11. Accordingly, the Substantive Sentence of Imprisonment imposed on the petitioners is suspended till the disposal of the appeals and the petitioners are ordered to be enlarged on bail, on condition that they shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each, with two sureties, each for a like sum to the satisfaction of the learned Chief Judicial Magistrate/Special Judge, Thiruvarur District.

12. Further, the petitioners are 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.

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M. NIRMAL KUMAR, J.

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To

- 1.The Inspector of Police,
Nagapattinam Q Branch, C.I.D.,
Nagapattinam.
- 2.The Chief Judicial Magistrate/Special Judge,
Thiruvarur District.
- 3.The Superintendent,
Central Prison,
Trichy.
- 4.The Public Prosecutor,
High Court, Madras.

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