



Crl.M.P.No.14688 of 2022
in Crl.A.No.1093 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2022

CORAM:

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

Crl.M.P.No.14688 of 2022
in
Crl.A.No.1093 of 2022

Viruthagiri

... Petitioner/Accused

Vs.

State rep. by its
Inspector of Police,
Anti-Corruption and Vigilance Section,
Cuddalore.
(Crime No.04 of 2009)

... Respondent

PRAYER: Criminal Miscellaneous Petition has been filed under Section 389 (1) of Cr.P.C to suspend the sentence passed in Spl.C.C.No.8 of 2010 vide judgment dated 26.08.2022 on the file of the Special Judge/Chief Judicial Magistrate, Special Court under Prevention of Corruption Act, 1988, Cuddalore and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.S.T.Raja

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



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by the learned Chief Judicial Magistrate/Special Judge, Cuddalore District by judgment dated 26.08.2022 made in Spl.C.C.No.08 of 2010 and enlarge the petitioner/appellant on bail pending disposal of the above Criminal Appeal.

2. The petitioner/appellant herein is the accused in Spl.C.C.No.08 of 2010 on the file of the Chief Judicial Magistrate Court, Cuddalore. He was found guilty for the offences punishable under Sections 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act 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 two years 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 has filed Crl.A.No.1093 of 2022 along with the instant miscellaneous petition seeking suspension of sentence and bail.



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4. The gist of the case is as follows:

The petitioner is the Village Administrative Officer of Periyavadi Village, Virudhachalam Taluk, Cuddalore District during the year 2007. On 01.07.2009, the de-facto complainant approached the petitioner for transfer of patta in his favour, for which, a demand has been made with the de-facto complainant. Initially, the demand was for a sum of Rs.3,000/-. Thereafter, it was reduced to Rs.2,000/- and further informed to give application in the Taluk Office on the next day. The de-facto complainant not willing to pay the amount. Hence, he lodged a complaint before the Trap Laying Officer/P.W.9 and the trap was laid on 03.07.2009. The de-facto complainant, who is the decoy witness, paid the amount of Rs.2,000/- to the accused. Thereafter, the Trap Laying Officer/P.W.9 on getting pre-arranged signal rushed into the house of the petitioner and caught him while receiving bribe amount. Hence, the case has been registered.

5. Before the trial Court, on the side of the prosecution 10 witnesses examined as P.W.1 to P.W.10 and marked 20 documents as Exs.P1 to P20 and marked 5 material objects as M.O.1 to M.O.5. On the side of the defence, no witness examined and one document marked as Ex.D1.



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6. The contention of the petitioner is that the petitioner is the Village Administrative Officer of Periyavadi Village, Virudhachalam Taluk, Cuddalore District during the year 2007. The de-facto complainant/P.W.2 had taken a loan from his uncle Radhakrishnan for a sum of Rs.10,000/- during January, 2007. The petitioner stood as guarantor and signed in the pro-note/Ex.D1. Since the de-facto complainant failed to make the payment properly, the petitioner questioned and shouted in front of the others, which was the motive for implicating the petitioner in this case. The de-facto complainant lodged a complaint on 02.07.2009 complaining that the petitioner had demanded a bribe for change of patta. The trap was laid on 03.07.2009 under the guise of returning back the loan of Rs.2,000/-. The petitioner has been falsely implicated in this case. The Trap Laying Officer/P.W.9 failed to consider all these aspects and without verifying the antecedents of the complainant as well as the petitioner, laid the trap. Ex.D1 is admitted by P.W.2. In view of the same, the petitioner had probalised his defence, which the trial Court failed to consider. Further the learned counsel submitted that the de-facto complainant had made an application in the Taluk Office for transfer of patta, which application not even referred to the petitioner. Further, for transfer of patta, the petitioner is not



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an authority, it is only the Tahsildar. Further it is 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 26.09.2022. 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.

7. Learned Government Advocate (Crl.Side) appearing for the respondent/Police submitted that P.W.1 is the sanctioning authority, P.W.2 is the decoy witness and P.W.3 is the accompanying public witness. The evidence of P.W.2 and P.W.3 corroborate with each other. The trap was successfully laid. P.W.9 is the Trap Laying Officer. P.W.4 to P.W.8 are the officials from the Revenue Department, who have stated about the procedure in issuance of patta. The trial Court on the evidence of P.W.1 to P.W.10 and Exs.P1 to P20 and M.O.1 to M.O.5 had convicted the petitioner. He further submitted that the Lower Court has suspended the sentence of the petitioner till 26.09.2022. Accordingly, the learned Government Advocate objected for the suspension of sentence of the petitioner.



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8. On a perusal of records, it is seen that P.W.2 admits the relationship between himself and the petitioner and his uncle Radhakrishnan. He has not denied Ex.D1. Further, the application for transfer of patta has been made only on 01.07.2009, which has not reached the petitioner. Further during questioning under Section 313 Cr.P.C., the petitioner had given detailed explanation.

9. Considering the 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.

10. 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, Special Court under Prevention of Corruption Act, Cuddalore.



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11. 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.

22.09.2022
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To

1. Inspector of Police,
Anti-Corruption and Vigilance Section,
Cuddalore.
2. The Chief Judicial Magistrate/Special Judge,
Special Court under Prevention of Corruption Act,
Cuddalore.
3. The Public Prosecutor,
High Court, Madras.



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M. NIRMAL KUMAR, J.

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