



Crl.MP.No.15249 of 2022 in Crl.A.No.869 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.MP.No.15249 of 2022

in

Crl.A.No.869 of 2022

R.Ravichandran (58/22)
S/o.Rajendra Rao,
Revenue Inspector,
Kunniyur Firka,
Thiruvarur Taluk & District.

... Petitioner

Vs.

The State Represented by
Inspector of Police,
Vigilance and Anti-Corruption,
Nagapattinam.
(Crime No.04 of 2013)

... Respondent

PRAYER: This Petition is filed under Section 389 (1) & 439 of Cr.P.C., to suspend the sentence imposed in Spl. S.C.No.04 of 2015 on 14.07.2022 passed by the learned Chief Judicial Magistrate at Thiruvarur and release the Petitioner on bail, pending disposal of hte above Criminal Appeal.

For Petitioner : Mr.P.Vijendran

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



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ORDER

This Criminal Miscellaneous Petition has been filed by the Petitioner/A1, seeking suspension of sentence of imprisonment imposed by the learned Chief Judicial Magistrate/Special Judge, Thiruvavarur District by judgment dated 14.07.2022 made in Spl.C.C.No.04 of 2015 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.04 of 2015 on the file of the Chief Judicial Magistrate Court, Thiruvavarur. 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 simple 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(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988.	To undergo simple 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		
Total fine imposed against the Petitioner/Accused is Rs.2,000/-		



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WEB COPY 3. Challenging the above conviction and sentence, the Petitioner/accused has filed Crl.A.No.869 of 2022 along with the instant Miscellaneous Petition, seeking suspension of sentence and bail.

4. The case of the prosecution is that on 13.07.2013 at about 13.00 hours, at Thiruvarur Taluk Office, A1/R.Ravichandran, who is the Revenue Inspector and A2, who is the Village Administrative Officer, demanded Rs.50,000/- as bribe from the de-facto complainant/S.H.Shajahan for themselves as gratification, other than legal remuneration, as a motive or reward, for doing their official act, for handing over the four vehicle keys, i.e. JCB, Dozer and two Tractors, which were seized by them. Again on 13.07.2013 at about 18.00 hours, the accused 1 and 2 reiterated their earlier demand of bribe, of Rs.50,000/- from the de-facto complainant for handing over the four vehicle keys without taking action against the de-facto complainant under Mines and Minerals Act. In pursuance of the aforesaid demands, on 15.07.2013 at about 16.10 hours at the de-facto complainant's Udhayam Marketing Shop, Thiruvarur, the first accused reiterated their demand and obtained Rs.50,000/- from him as illegal gratification for handing over the four vehicles keys. Hence, the case against them.



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5. Before the trial Court, on the side of the prosecution 14 witnesses examined as P.W.1 to P.W.14 and 18 documents marked as Exs.P1 to P18 and 5 material objects marked as M.O.1 to M.O.5. On the side of the defence, 3 witnesses examined as D.W.1 to D.W.3 and 2 documents marked as Exs.D1 and D2.

6. The contention of the Petitioner is that the Petitioner is the Revenue Inspector in Thiruvarur District. The de-facto complainant/P.W.2 illegally quarried the minerals, which was questioned by the Petitioner as well as A2 and seized four vehicles, i.e. JCB, Dozer and two Tractors. The case now projected is, as though for release of vehicles, bribe amount of Rs.50,000/- demanded and a complaint lodged on 15.07.2013, on which date, A1 said to have visited the shop of de-facto complainant and received the money in the presence of P.W.4. Thereafter, the Trap Laying Officer/P.W.12 caught A1 red handed and the case proceeded against the Petitioner that he had made demand and received the bribe amount. He further submitted that P.W.2 decoy witness deposed in Chief, thereafter his cross examination was deferred for examining identical witnesses, namely, P.W.4 and P.W.12. After completion of evidence of P.W.4 and P.W.12, the Petitioner recalled the deferred decoy witness, by that time, P.W.2



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passed away. Earlier, this Court, dismissed the suspension petition on the ground that P.W.2 failed to be cross examine and hence, his evidence stands unchallenged. Further, in non observance of Rule 47 of the DVAC Manual the same would not affect the case of the prosecution. Hence, the petition was dismissed. After dismissal of the petition, the Petitioner surrendered before the trial Court and now he is confined in Central Prison, Trichy from 16.08.2022. Learned counsel further submitted that the Petitioner paid the fine amount of Rs.2,000/- . Further, the Petitioner has got arguable points and fair chance of success in the Appeal. The Petitioner was on bail both during investigation and during trial. 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 the Petitioner along with A2 conspired together and demanded illegal gratification of Rs.50,000/- for release of four vehicles, i.e. JCB, Dozer and two Tractors of the de-facto complainant and also not to initiate any proceedings against the de-facto complainant under Mines and Minerals Act. He further submitted that A1 came to the shop of P.W.2/de-facto complainant and received the money in the presence of P.W.4, caught red handed by P.W.12. Prior to the trap, all the pre-trap and post-trap formalities



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complied with. The forensic evidence confirms the receipt of tainted bribe money by A1, who received the same kept it in his shirt pocket. Further, they failed to cross-examine P.W.2. On the evidence and materials produced before the Court, the trial Court convicted the Petitioner. He further submitted that after dismissal of the earlier suspension of sentence, the Petitioner now surrendered on 16.08.2022. However, the learned Government Advocate objected for the suspension of sentence of the Petitioner.

8. On a perusal of the materials, it is seen that P.W.2 is the decoy witness. His cross examination was deferred by the trial Court under Section 242(3) Cr.P.C. This provision is provided, to defer cross examination of identical witnesses, since the defence of the accused would get exposed. The trial Court having allowed to defer the cross examination of P.W.2, in the meanwhile, due to some reason P.W.2 was not available, will not automatically make his evidence admissible and termed to be unchallenged. With regard to P.W.4, who is the shadow witness had stated nothing about the other demand and receipt of money. Further Petitioner examined himself as D.W.1 and marked Exs.D1 and D2, which are Fine Register and Receipt, respectively, which was imposed on the de-facto complainant/P.W.2. It would confirm motive by the decoy PW2 against the Revenue officials for taking action against him.



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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, further 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, Thiruvarur.

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.

10.10.2022

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Note: Issue order copy today (10.10.2022)



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To

1. The Chief Judicial Magistrate/Special Judge,
Thiruvavarur.
2. The Inspector of Police,
Vigilance and Anti-Corruption,
Nagapattinam.
3. The Superintendent of Prison,
Central Prison, Trichy.
4. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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