



WEB COPY



Crl.M.P.No.15963 of 2022
in Crl.A.No.1136 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2022

CORAM:

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

Crl.M.P.No.15963 of 2022
in
Crl.A.No.1136 of 2022

G.Manimegalai

... Petitioner/Accused

Vs.

The State rep. by
The Deputy Superintendent of Police (V & AC),
Dharmapuri,
Dharmapuri District.
(Crime No.07/AC/2013/DP)

... Respondent

PRAYER: Criminal Miscellaneous Petition has been filed under Section 389 (1) of Cr.P.C to suspend the sentence imposed on the petitioner by virtue of judgment dated 27.09.2022 made in Spl.C.C.No.1 of 2015 on the file of the learned Chief Judicial Magistrate/Special Judge, Dharmapuri and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.R.John Sathyan
for Mr.N.Elumalai

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



Crl.M.P.No.15963 of 2022
in Crl.A.No.1136 of 2022

the learned Chief Judicial Magistrate/Special Judge, Dharmapuri by judgment dated 27.09.2022 made in Spl.C.C.No.1 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.1 of 2015 on the file of the Chief Judicial Magistrate/Special Judge, Dharmapuri. He was found guilty for the offences punishable under Sections 7 and 13(2) of Prevention of Corruption Act and she has been convicted and sentenced as under:

Petitioner /Accused	Conviction	Sentence
Petitioner/Accused	Sections 7 of the Prevention of Corruption Act, 1988.	To undergo three years rigorous imprisonment and to pay a fine of Rs.50,000/-, in default to undergo one year rigorous imprisonment.
	Section 13(2) of the Prevention of Corruption Act, 1988.	To undergo three years rigorous imprisonment and to pay a fine of Rs.50,000/-, in default to undergo one year rigorous imprisonment.
The sentences are directed to run concurrently		
Total fine imposed against the petitioner/Accused is Rs.1,00,000/-		

3. Challenging the above conviction and sentence, the petitioner/accused has filed Crl.A.No.1136 of 2022 along with the instant miscellaneous petition seeking suspension of sentence and bail.



Crl.M.P.No.15963 of 2022
in Crl.A.No.1136 of 2022

4. The gist of the case is as follows:-

On 15.10.2013, the de-facto complainant went to the Tahsildar Office, Pennagaram and approached the petitioner/accused, who is the Special Tahsildar, seeking for compensation amount of Rs.1,02,500/- under the Farmer Social Security Scheme for the death of her younger son, namely, Paramasivam, who died on 10.03.2013 due to electrocution while working in M.S.Chicken Centre. For issuing compensation amount, the petitioner had demanded a sum of Rs.20,000/- as bribe. On the same day, the de-facto complainant and her husband approached the petitioner and paid a sum of Rs.10,000/- as part payment and handed over the Family Ration Card and Farmer Security Scheme Card as demanded by the petitioner. The petitioner insisted for balance bribe amount of Rs.10,000/- to be paid at the time of receiving the cheque towards compensation amount. Thereafter, on 18.10.2013, the cheque was handed over to the de-facto complainant. When the de-facto complainant sought for return of the Family ration card and Farmer Security Scheme Card, it was informed that the cards were retained for the purpose of entering data in the Revenue records. After realisation of the cheque amount, the de-facto complainant approached the petitioner on 26.10.2013 and sought for return of the cards. At that time, the petitioner insisted for the balance bribe amount of Rs.10,000/-. On 13.11.2013,



Crl.M.P.No.15963 of 2022
in Crl.A.No.1136 of 2022

again the de-facto complainant approached the petitioner and expressed her inability to pay the balance of Rs.10,000/-. Thereafter, the demand was reduced to Rs.7,000/-. The de-facto complainant not willing to pay the bribe amount and hence lodged a complaint before the respondent Police and thereafter pre-trap proceedings were conducted. On 19.11.2013, the de-facto complainant along with the accompanying witness/P.W.3 went to the petitioner's office. The de-facto complainant, who is the decoy witness, paid the amount of Rs.7,000/- to the petitioner/accused. Thereafter, the Trap Laying Officer/P.W.12 on getting pre-arranged signal rushed into the office and caught the petitioner/accused while receiving bribe amount. Phenolphthalein test turned positive confirming that the petitioner had received bribe amount. Thereafter, the accused was arrested and the amount was recovered. Hence, the case has been registered. The trial Court on completion of the trial, convicted the petitioner/accused as above.

5. Before the trial Court, on the side of the prosecution, 13 witnesses examined as P.W.1 to P.W.13 and marked 32 documents as Exs.P1 to P32 and marked material objects as M.O.1 to M.O.7. On the side of the defence, 8 witnesses examined as D.W.1 to D.W.8 and marked 10 documents as Exs.D1 to D10.



Crl.M.P.No.15963 of 2022
in Crl.A.No.1136 of 2022

6. The contention of the petitioner is that the petitioner is said to have demanded Rs.20,000/- as bribe to the de-facto complainant for processing her application and releasing compensation amount of Rs.1,02,500/- for the death of her second son, who died due to electrocution while working in Chicken Centre. It was alleged that initially, a sum of Rs.10,000/- was received as part payment and the petitioner also collected the Family Ration Card and Farmer Security Scheme Card. Thereafter, the amount of Rs.1,02,500/- was released. For payment of balance amount of Rs.10,000/-, Family Ration Card and Farmer Security Scheme Card were retained by the petitioner. Thereafter, the de-facto complainant is said to have lodged a complaint and trap is said to have laid. Learned counsel for the petitioner submitted that there is no reason for the petitioner to retain the Family Ration Card and Farmer Security Scheme Card. There is a dispute between P.W.2 and her husband Madhan. The cheque was issued in the name of Madhan, for which, the defacto-complainant had an objection. For this reason, the petitioner has been falsely implicated in this case. Further, the learned counsel submitted that the petitioner has paid the fine amount of Rs.1,00,000/-. 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.



Crl.M.P.No.15963 of 2022
in Crl.A.No.1136 of 2022

WEB COPY

7. Learned Government Advocate (Crl.Side) appearing for the respondent-Police submitted that P.W.2 is the decoy witness, P.W.3 is the accompanying witness and P.W.12 is the Trap Laying Officer. The evidence of P.W.2 and P.W.3 corroborate with each other. On the complaint of de-facto complainant/P.W.2, F.I.R. has been registered. Thereafter, pre-trap proceedings conducted in the presence of P.W.3 and other public servant. The trap has been successfully completed and the trapped amount was recovered from the accused, which also tested positive. The defence of the petitioner had been raised before the trial Court. The trial Court, on considering the evidence and materials found that P.W.2 and her husband jointly received the compensation amount. Further, the petitioner to prove her defence, examined D.W.1 to D.W.8, which are also discussed. The petitioner caught red handed while receiving the trap amount. Considering all the materials, the trial Court had rightly convicted the petitioner. He further submitted that the petitioner was on bail during investigation as well as during trial.

8. 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



Crl.M.P.No.15963 of 2022
in Crl.A.No.1136 of 2022

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 Chief Judicial Magistrate/Special Judge, Dharmapuri.

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.

20.10.2022
(2/2)

rsi

Note: Issue order copy on 20.10.2022

To

1.The Deputy Superintendent of Police (V & AC),
Dharmapuri,
Dharmapuri District.

2.The Chief Judicial Magistrate/Special Judge,
Dharmapuri.



WEB COPY



Crl.M.P.No.15963 of 2022
in Crl.A.No.1136 of 2022

M. NIRMAL KUMAR, J.
rsi

3.The Public Prosecutor,
High Court, Madras.

Crl.M.P.No.15963 of 2022
in
Crl.A.No.1136 of 2022

20.10.2022
(2/2)