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CrI.M.P.No.17047 of 2022 in CrI.A.1165 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2022

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.M.P.No.17047 of 2022

in

CrI.A.1165 of 2022

G.Vijayaraghavan, Aged 56
S/o.Guruswamy,
Formerly Tax Collector,
Chennai Corporation,
Zone – 11, Valasarawakkam,
Chennai – 87
Presently residing at
No.1, Kumarankudil,
Ramakrishna Nagar Main Road,
Porur, Chennai 116.

... Petitioner

Vs.

State Represented by
Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Special Investigation Cell,
Chennai

... Respondent

PRAYER : This Petition is filed under Section 389 (1) of Cr.P.C., to suspend the execution of the sentence dated 26.10.2022 passed on the file of the Chief



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Judicial Magistrate and Special Judge for Prevention of Corruption Act Cases, Tiruvallur in Special C.C.No.06/2014 pending disposal of the above Appeal.

For Petitioner : Mr.V.N.Krishnamurthy

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

ORDER

This Criminal Miscellaneous Petition has been filed by the Petitioner, seeking suspension of sentence dated 26.10.2022 passed on the file of the learned Chief Judicial Magistrate and Special Judge for Prevention of Corruption Act Cases, Tiruvallur in Special C.C.No.06/2014, pending disposal of the above Appeal.

2.The Petitioner/Appellant herein is the accused in Spl.C.C.No.06 of 2014 on the file of the learned Chief Judicial Magistrate, Thiruvallur. 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:



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Petitioner /Accused	Conviction	Sentence
Petitioner/ Accused	Section 7 of the Prevention of Corruption Act, 1988.	To undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.20,000/-, 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 three years and to pay a fine of Rs.20,000/-, 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.40,000/-		

3.Challenging the above conviction and sentence, the Petitioner/accused has filed Crl.A.No.1165 of 2022 along with the instant Miscellaneous Petition, seeking suspension of sentence and bail.

4.The contention of the Petitioner is that the Petitioner has been falsely implicated in this case. Even according to the evidence of Pw2/decoy witness and Pw3/accompanying witness, they were standing in a queue for remitting fees, at that time, the Petitioner come there and the money was offered and the Petitioner refused to take the same and it was thrust on the Petitioner's pocket. In view of the same, there is no demand or acceptance of bribe amount. There was some dispute with regard to the assessment of property



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tax, for which the Petitioner has been falsely implicated in this case. PW4 is the complainant, who has clearly stated about the dispute with regard to assessment of tax. The trial Court failed to taking into consideration that there is no demand and tries the Petitioner invoking, Section 20 of the Act and convicted the Petitioner. The Petitioner was forced to handle the money. These vital facts have not been considered by the trial Court. He further submitted that the fine imposed on the Petitioner by the Trial Court has already been paid by the Petitioner.

5.Learned Government Advocate (Crl. Side) submitted that in this case, the Petitioner is the Tax Collector attached to Corporation Office, Ramapuram. PW4 made an application dated 16.04.2013, on behalf of PW2 for assessment of property tax. At that time itself, the Petitioner demanded bribe amount of Rs.3,500/- for assessment of property tax. Later, at request, the same was reduced to Rs.3,000/- on 18.04.2013. PW2 is not willing to pay the bribe and therefore, he lodged a complaint before the Respondent. Thereafter, antecedents of the Petitioner was verified and trap proceedings were laid. PW3 and another Government official were summoned, pre-trap



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proceedings were explained to them, mahazars recorded and thereafter, PW3 gone to the office of the Petitioner, where the Petitioner demanded for bribe amount, which has handed over and he received the same and kept the same in his left side T-Shirt's pocket. Thereafter, PW3 gave pre-arranged signal to the Trap Laying Officer/PW7, who gone there and caught the Petitioner red handed. Phenolphthalein test also conducted. During the cross examination, PW2/decoy witness gave a different contention stating that money has been kept in Petitioner's pocket, which is contrary to the records of the recovery mahazar. This is now projected as though, money was thrust. Therefore, the learned Government Advocate (CrI. Side) objected for the suspension of sentence of the Petitioner.

6. On the evidence and materials produced, the trial Court, by a well reasoned judgment, convicted the Petitioner. On perusal of the materials, it is seen that the Appeal is a statutory appeal. The Petitioner has got valid grounds in the Appeal. Further the Petitioner was on bail during investigation, during trial and even now.



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7.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.

8.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 for Prevention of Corruption Act Cases, Thiruvallur.

9. 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.

14.11.2022

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Note: Issue order copy on 15.11.2022.

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To

1.The learned Chief Judicial Magistrate/
Special Judge for Prevention of Corruption Act Cases,
Thiruvallur

2.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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Dated: 14.11.2022
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