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Crl.M.P.No.17616 of 2022 in Crl.A.1186 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2022

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.M.P.No.17616 of 2022

in

Crl.A.1186 of 2022

T.Madurai Muthu
M/A-57/2011
S/o.Thiruvankadam,
Junior Assistant,
O/o.The Tamil Nadu Slum Clearance Board,
Kamarajar Salai, Chennai 600005.

... Petitioner

Vs.

The State
Rep. by the Inspector of Police,
Department of Vigilance and Anti Corruption,
Chennai.
(Crime No.06/AC/2011/HQ)

... Respondent

PRAYER : This Petition is filed under Section 389 (1) of Cr.P.C., to suspend the sentence imposed on him in C.C.No.3 of 2012 on the file of the Special Judge in the Special Court for the cases under Prevention of Corruption Act at Chennai dated 22.09.2022.



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For Petitioner : Mr.K.Balaji

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 imposed on him in C.C.No.3 of 2012 on the file of the learned Special Judge in the Special Court for the cases under Prevention of Corruption Act at Chennai, dated 22.09.2022.

2.The Petitioner/Appellant herein is A1 in C.C.No.03 of 2012 on the file of the learned Special Judge in the Special Court for the cases under Prevention of Corruption Act at Chennai. 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/ A1	Section 7 of the Prevention of Corruption Act, 1988.	To undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/-, in default, to undergo simple Imprisonment for three months.



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Petitioner /Accused	Conviction	Sentence
	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/A1 is Rs.2,000/-		

3.Challenging the above conviction and sentence, the Petitioner/A1 has filed Crl.A.No.1186 of 2022 along with the instant Miscellaneous Petition, seeking suspension of sentence and bail.

4.The contention of the Petitioner is that he was working as Junior Assistant in Tamil Nadu Slum Clearance Board and it is projected by the prosecution that on 25.12.2010, he demanded a sum of Rs.1,500/- for issuance of sale deed with the demarcation area. There was some dispute between the Petitioner and the Defacto Complainant. The Defacto Complainant, who is a retired police official encroached upon the common area and he wanted to regularise it somehow, which was opposed by the Petitioner. For this reason, the trap has been utilised by the Defacto Complainant/PW3 to get his sale deed. Admittedly, the Petitioner who is a Junior Assistant was not present on the alleged day of demand. In this case,



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the complaint was lodged on 25.02.2011 and on the same day trap was laid, without verifying the antecedents of the Petitioner, PW14/Trap Laying Officer, who somehow wanted to succeed the trap, has falsely implicated the Petitioner in this case. PW16, who is an official witness also told on the line of the prosecution. The trial Court failed to consider the infirmities in this case.

5.Learned counsel for the Petitioner further submitted that A2 filed Appeal in Crl.A.No.1131 of 2022 and his sentence was suspended in Crl.MP.No.15640 of 2022 on 17.10.2022. The Petitioner was on bail during investigation and trial. He further submitted that the fine imposed on the Petitioner by the Trial Court has already been paid by the Petitioner.

6.Learned Government Advocate (Crl. Side) strongly opposed this Petition and submitted that 16 witnesses examined, 22 documents marked on the side of the prosecution, M.Os 1 to 3 also marked and on the side of the defense, no witness examined and no documents marked before the trial Court. The Petitioner made a demand to the Defacto Complainant on



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20.12.2010 and 21.02.2011. The Petitioner's contacts and demand proved by the call details. The Nodal Officers from the service provider viz., PW10 & PW11 also confirm the same. A1 is only an instrument who had acted upon the direction of A2. PW3, who is the decoy witness and PW4, who is the accompanying witness and the evidence PW14/Trap Laying Officer and Pw16/Official witness are also in conformity with the sanction witness PW1. Considering all these aspects and finding the Petitioner's involvement in this case, demand and receipt of bribe amount, the trial Court rightly convicted the Petitioner. Therefore, the learned Government Advocate (CrI. Side) objected for the suspension of sentence of the Petitioner.

7. 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.

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, further



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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.

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 Special Judge, Special Court for the cases under Prevention of Corruption Act at Chennai.

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.

22.11.2022

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Note: Issue order copy on 22.11.2022.



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To
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1.The learned Special Judge,
Special Court for the cases under
Prevention of Corruption Act,
Chennai.

2.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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Dated: 22.11.2022
(2/2)