



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Tuesday, the Sixteenth day of August Two Thousand and Twenty Two

WEB COPY

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.9480 of 2022

in

CRL A(MD)No.495 of 2022

L.SIVAKUMAR

... PETITIONER/APPELLANT

Vs

THE STATE REP BY,
THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION POLICE STATION,
THANJAVUR,
THANJAVUR DISTRICT.
CRIME NO.3 OF 2011.

... RESPONDENT/RESPONDENT

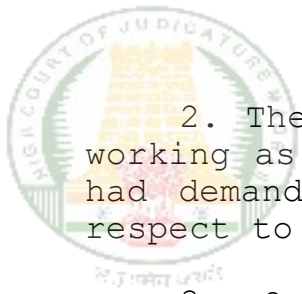
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to enlarge the petitioner on bail suspending the sentence imposed upon him in S.C.No.11 of 2014 on the file of the Learned Chief Judicial Magistrate, Thanjavur at Kumbakonam, Thanjavur District by Judgment dated .28.7.2022 pending disposal of the main Criminal Appeal.

PRAYER IN CRL A(MD)No.495 OF 2022:

Pleased to call for the records in Special Case No.11 of 2014 on the file of the Learned Chief Judicial Magistrate, Thanjavur at Kumbakonam, Thanjavur District, and set aside the Judgment dated 28.07.2022 and Acquit the Accused/Appellant of the Charges.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.C.MAYILVAHANA RAJENDRAN, Advocate for the petitioner and of MR.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed in Spl.S.C.No.11 of 2014, dated 28.07.2022, on the file of the learned Chief Judicial Magistrate, Thanjavur at Kumbakonam, till the disposal of this Criminal Appeal.



2. The case of the prosecution is that the petitioner, as working as the Inspector of Police, Thanjavur Taluk Police Station, had demanded bribe from one Jeyakumar to act in his favour with respect to the criminal case registered against him.

3. On the basis of the complaint lodged by the defacto complainant, FIR came to be registered in Crime No.03 of 2011.

4. The respondent police, after completing the investigation, has laid a final report for the offences under Sections 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988, and the case was taken on file in Spl.S.C.No.11 of 2014 on the file of the learned Chief Judicial Magistrate, Thanjavur at Kumbakonam.

5. During the trial on the side of the prosecution, 25 witnesses have been examined as P.W.1 to P.W.25, 33 documents have been exhibited as Ex.P.1 to Ex.P.33 and 4 material objects were marked as M.O.1 to M.O.4 and on the side of the accused, 1 witness has been examined as D.W.1 and 5 documents have been exhibited as Ex.D.1 to Ex.D.5.

6. The learned Chief Judicial Magistrate, upon considering the evidences adduced and on hearing the arguments on both the sides, has passed the impugned judgment dated 28.07.2022 convicting the petitioner/accused for the offence under Section 7 of Prevention of Corruption Act and sentenced him to undergo two years simple imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo one month simple imprisonment and convicting the petitioner/accused for the offence under Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act and sentenced him to undergo two years simple imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo one month simple imprisonment and further ordered that both the sentences of imprisonment to run concurrently. The Trial Court has suspended the sentence imposed on the petitioner till 26.08.2022. Aggrieved by the said judgment of conviction and sentence, the petitioner preferred the present appeal along with the above miscellaneous petition for suspension of sentence.

7. The learned counsel for the petitioner would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

8. The learned Additional Public Prosecutor appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

9. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available



10. The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

11. Accordingly, the relief of suspension of sentence granted to the petitioner on the following conditions:-

(i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Chief Judicial Magistrate, Thanjavur at Kumbakonam, Thanjavur District;

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iii) The petitioners shall appear before the concerned Court once in a month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

sd/-
16/08/2022

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/08/2022

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

csn

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



TO

1 THE CHIEF JUDICIAL MAGISTRATE
THANJAVUR AT KUMBAKONAM,
THANJAVUR DISTRICT.

2 THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION POLICE STATION,
THANJAVUR, THANJAVUR DISTRICT.

3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.C.MAYIL VAHANA RAJENDRAN, Advocate (SR-8558[I] dated
16/08/2022)

ORDER

IN

CRL MP(MD) No.9480 of 2022
in

CRL A(MD)No.495 of 2022

Date :16/08/2022

PKP/JM/SAR-1/17.08.2022/4P/5C