



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Seventh day of November Two Thousand and Twenty Two
PRESENT

The Hon`ble Mr.Justice G.ILANGOVAN

CRL MP(MD) No.13313 of 2022

IN

CRL A(MD) No.708 of 2022

A.RANI AARON

... APPELLANT/SOLE ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION,
SIVAGANGAI DISTRICT.
CR.NO.13/2002

... RESPONDENT/COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the sentence imposed against the petitioner in Spl.C.C.No.12/2014 dt 27.10.2022 on the file of the Special Court for Trial of cases Under Prevention of corruption Act, Sivagangai and enlarge the petitioner on bail pending disposal of the above criminal appeal.

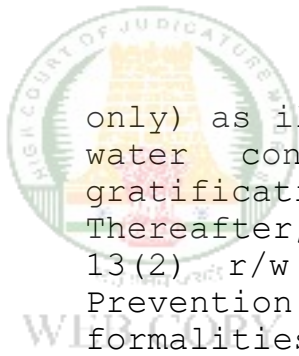
Prayer in CRL A(MD).708 of 2022 :

To call for the records relating to the judgment in Spl.C.C.No.12/2014 dated 27.10.2022 on the file of the Special Court for Trial of Cases Under Prevention of Corruption Act, Sivagangai and set aside the same and allow this Criminal Appeal.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.M.SUBASH BABU, Advocate for the petitioner and of M/S.S.RAVI, Additional Public Prosecutor on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the Special Court for Trial of Cases under Prevention of Corruption Act, Sivagangai, dated 27.10.2022 in Spl.C.C.No.12 of 2014 and enlarge the petitioner on bail.

2.The case of the prosecution is that the defacto complainant lodged a complaint with the respondent police stating that the accused persons demanded Rs.1,000/- (Rupees one Thousand only) for providing drinking water pipe connection to his house. On the basis of the complaint given by the defacto complainant, a case has been registered and trap was laid. On 20.12.2002 at about 4 p.m., the accused persons demanded and accepted Rs.300/- (Rupees Three Hundred



only) as illegal gratification for the purpose of providing water connection. Similar demand and acceptance of illegal gratification was noted, on the basis of the above said occurrence. Thereafter, a case was registered for the offences under Sections 7, 13(2) r/w 13 (1)(d)(i) and Section 13(2) r/w 13(1)(c) of the Prevention of Corruption Act 1988. After completion of investigation formalities, final report was filed before the concerned Court.

3. Before the trial Court, on the side of the prosecution, 13 witnesses have been examined and 30 documents marked. 11 material objects were exhibited. On the side of the accused, no witness was examined and no document was marked. No materials object was exhibited.

4. The learned counsel for the petitioner submitted that the petitioner has been convicted by the learned trial judge, for the alleged offences under Section 7 of Prevention of Corruption Act 1988 and sentenced him to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.5,000/- in default to undergo simple imprisonment for a period of three months, for the alleged offences under Section 13(2) r/w 13(1)(d) (I) of Prevention of Corruption Act 1988 and sentenced him to undergo simple imprisonment for a period of 4 years and to pay a fine of Rs.5,000/- in default to undergo simple imprisonment for a period of three months and for the alleged offence under Section 13(2) r/w 13(1) © of Prevention of Corruption Act 1988 and sentenced him to undergo simple imprisonment for a period of 4 years and to pay a fine of Rs.5,000/- in default to undergo simple imprisonment for the period of 3 months in S.C.No.12 of 2014 on the file of the Special Court for Trial of Cases under Prevention of Corruption Act, Sivagangai.

5. The learned counsel for the petitioner submitted that during the course of trial, P.W.2/defacto complainant turned hostile and other witnesses also died. In spite of the fact that P.W.2 not supported the case of the prosecution, the trial Court convicted the petitioner and imposed the above said imprisonment.

6. Per contra, the learned Additional Public Prosecutor appearing for the respondent police submitted that the conduct of the petitioner must taken into account. According to him, P.W.2 was examined on 17.09.2008 in chief. After lapse of six years, a petition has been filed to recall P.W.2 and during the course of cross examination only he turned hostile. According to the learned Additional Public Prosecutor a large time gap was consumed by the petitioner and the request of the petitioner was taken note and that was utilized by the petitioner to win over the P.W.2. Noting the above said fact only, the trial Court has directed a prosecution to file an affidavit under Section 193 IPC.



7.The learned Additional Public Prosecutor submitted the petitioner is not entitled for suspending the sentence pending the appeal. He further submitted that he remained absent before the trial Court thrice and repeatedly warrant has been issued against her.

8.Heard both sides and perused the materials available on record.

9.Only on the ground on which, the appeal is preferred that P.W.2/defacto complainant turned hostile during the course of cross examination. According to her inspite of that the above said conviction has been rendered.

10.The trial Court has taken into account the evidence of shadow witness and other circumstances evidence to record the finding of guilt. However, the crime is of the year 2014 and it has been dragged on for eight years.

11.Considering the fact that the petitioner is a woman, who is aged about 64 years. The learned counsel for the petitioner submitted that she is undergoing medical ailments but no records has been produced.

12.Considering her age factor, this Court is inclined to grant the relief of suspension of sentence.

13.Accordingly, the suspension of sentence petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner is directed to be enlarged on bail on condition that the petitioner 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 Court for Trial of Cases Under Prevention of Corruption Act, Sivagangai and on further condition that the petitioner shall appear before the said Court once in a week at 10.30 a.m. pending appeal.

sd/-

07/11/2022

/ TRUE COPY /

08/11/2022

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

TO

1 THE JUDGE,
SPECIAL COURT FOR TRIAL OF CASES UNDER
PREVENTION OF CORRUPTION ACT,
SIVAGANGAI.



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

3 THE SUPERINTENDENT,
CENTRAL PRISON FOR WOMEN,
MADURAI.

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

+1 CC to M/s.M.SUBASH BABU, Advocate (SR-12528[I] dated
07/11/2022)

ORDER

IN

CRL MP(MD) No.13313 of 2022

IN

CRL A(MD) No.708 of 2022

Date :07/11/2022

TTA

RS/SBN/SAR.(08.11.2022) 4P-6C