



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

Wednesday, the Twenty First day of December Two Thousand and
Twenty Two

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.15903 of 2022

IN

CRL A(MD) No.872 of 2022

S.SHANMUGAM

... APPELLANT/SOLE ACCUSED

Vs

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
VIGILANCE AND ANTI CORRUPTION WING,
PUDUKKOTTAI.
(IN CRIME NO.8/2009).

... RESPONDENT/COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to order to suspend the sentence imposed on the petitioner for an offence under Section 7 of Prevention of Corruption act to undergo rigorous imprisonment for a period of 5 years and also imposed a fine of Rs.5000/- in default to undergo a simple imprisonment for the term of 1 year and also sentenced to undergo rigorous imprisonment for 5 years and imposed an fine of Rs.5000/- in default to undergo simple imprisonment for 1 year under section 13(1)(d) r/w section 13(2) of prevention of corruption act, by under section judgment dated 30.11.2022 in Special Calender Case No.2/2011 and enlarge the petitioner on bail pending disposal of this Criminal Appeal.

PRAYER IN CRL.A.(MD) NO.872 of 2022 :

Pleased to call for records and allow the appeal and acquit the accused by setting aside the judgment dated 30.11.2022 in Special Calender Case No.2 of 2011 on the file of the learned Chief Judicial Magistrate, Pudukkottai.

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.GANAPATHI SUBRAMANIAN.P, Advocate for the petitioner and of MR.M.SAKTHI KUMAR, Government Advocate (Crl.) on behalf of the Respondent, the court made the following order:-



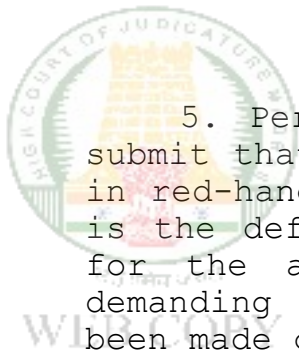
This petition has been filed to suspend the sentence imposed on the petitioner for an offence under Section 7 of Prevention of Corruption Act to undergo Rigorous Imprisonment for a period of 5 years and also imposed a fine of Rs.5000/- in default to undergo a Simple Imprisonment for the term of 1 year and also sentenced to undergo Rigorous Imprisonment for 5 years and imposed an fine of Rs.5000/- in default to undergo Simple Imprisonment for 1 year under Section 13(1)(d) r/w. Section 3(2) of Prevention of Corruption Act, by judgment dated 30.11.2022 in Special C.C.No.2 of 2011 and enlarge the petitioner on bail, pending disposal of this appeal.

2. Case of the prosecution in brief:

The accused herein was working as Commercial Inspector in the office of the Assistant Engineer, Tamil Nadu Electricity Board, Pudukkottai. The complainant was running welding workshop at Ammapattinam, Manamelkudi Taluk. The above said workshop gutted due to fire accident and the EB reading meter was also damaged. So, for the purpose of shifting the above said welding workshop to some other place, he approached the accused, at that time he demanded Rs.5000/- as illegal gratification for shifting the above said connection. So on the basis of the complaint given by him, trap was laid and the accused was got red-handed while he received the above said illegal gratification. On the basis of the above said occurrence, the case was registered. After completing the investigation formalities, Final Report has been filed and that was taken cognizance in Special C.C.No.02 of 2011 by the Special Court, Pudukkottai.

3. To prove the charges, the prosecution has examined 13 witnesses and marked 21 documents apart from 3 material objects. After completion of the trial, the trial Court came to the conclusion that the offences under Sections 7, 13(2) r/w. 13(1)(d) of Prevention of Corruption Act, 1988, were proved by the prosecution. Accordingly, he was convicted and sentenced to undergo 5 years Rigorous Imprisonment under both sections and Rs.5000/- as fine each. He was taken into custody on the same day of judgment. Challenging the above said conviction and sentence imposed on the petitioner, this appeal has been preferred. Pending appeal, this petition has been filed seeking Suspension of Sentence.

4. The learned counsel for the petitioner would submit that after five months of gap from the date of fire accident, the above said request or complaint are made. The owner of the shop of the defacto complainant who wanted shifting was not examined. According to the petitioner, this fatal aspects have not taken into account by the trial Court apart from material contradiction. So, he is entitled for Suspension of Sentence.



5. Per contra, the learned Additional Public Prosecutor would submit that it is the trap case and this petitioner was apprehended in red-handed at the time of receiving illegal gratification. P.W.2 is the defacto complainant, who has given satisfactory explanation for the above said delay. According to him, since because of demanding and receiving the illegal gratification and no case has been made out to the petitioner to suspend the sentence.

6. Records perused. No doubt that this is a trap case. Whether the grounds mentioned in the grounds of appeal can be considered favourably to the petitioner is the matter for consideration in the main appeal. But considering the fact that no bad antecedent is represented, it may take for some time to take up the main matter for final disposal. The learned Additional Public Prosecutor would submit that this case is of the year 2011 and this petitioner has drag on the matter for more than 10 years. But at whose facts, delay occurred is the matter for consideration in the main appeal.

7. Considering the above said facts, 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 his executing 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, Pudukkottai, and on further condition that the petitioner shall appear before the concerned Court once in a week i.e., on the first working day of every week at 10.30 a.m. pending appeal.

sd/-

21/12/2022

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22/12/2022

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

INDU

TO

1. THE CHIEF JUDICIAL MAGISTRATE,
PUDUKKOTTAI.
2. THE INSPECTOR OF POLICE,
VIGILANCE AND ANTI CORRUPTION WING,
PUDUKKOTTAI.
3. THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.



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

+1 CC to M/s.GANAPATHI SUBRAMANIAN.P, Advocate (SR-15278[I] dated
21/12/2022)

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ORDER

IN

CRL MP(MD) No.15903 of 2022

IN

CRL A(MD) No.872 of 2022

Date :21/12/2022

USK/SSS/SAR-I/22.12.2022/4P/6C