



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.09.2023

CORAM :

THE HONOURABLE Dr. JUSTICE **G.JAYACHANDRAN**

Crl.M.P.Nos.14203 & 13977 of 2023

and

Crl.A. Nos.960 & 978 of 2023

D.Kumar

.. Petitioner/A1 in Crl.M.P. No.14203 of 2023

V.Sabarathinam

.. Petitioner/A2 in Crl.M.P. No.13977 of 2023

Vs.

State by:

Inspector of Police,
Vigilance and Anti Corruption,
Namakkal.

Crime No.8/AC/2010

..Respondent in both Crl.MPs.

COMMON PRAYER : Criminal Miscellaneous Petitions has been filed under section 389(1) of Criminal Procedure Code to grant suspension of sentence imposed on the petitioners in Spl.CC. No.14 of 2016 on 23.08.2023 by the learned Special Judge/Chief Judicial Magistrate, Namakkal and to release the petitioners on bail pending disposal of the Criminal Appeal.

For Petitioners : Mr.V.Ramamurthy in
Crl.M.P. No.14203 of 2023
Mr.K.Shankar in
Crl.M.P. No.13977 of 2023

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



COMMON ORDER

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The petitioners/A1 & A2 herein were found guilty by the learned Special Judge/Chief Judicial Magistrate, Namkkal for A1 offences under Sections 120B, 420, 465, 468, 408, 477A and Section 120B r/w. 13(2) r/w. 13(1)(c) of the Prevention of Corruption Act, 1988 and for A2/offences under Sections 120B, 420, 465, 468, 409, 477A and Section 13(2) r/w. 13(1)(c) of the Prevention of Corruption Act, 1988/A2.

2. They have been convicted and sentenced vide impugned judgment dated 23.08.2023, as below:-

<i>Rank of the accused</i>	<i>Conviction under section</i>	<i>Sentence Awarded</i>
A1 & A2	120(B) IPC	To undergo six months Simple imprisonment
	420 IPC	To undergo three years Simple Imprisonment and pay a fine of Rs.5,000/- in default to undergo 6 months Simple Imprisonment.
	465 IPC	To undergo one year Simple Imprisonment and pay a fine of Rs.5,000/- in default to undergo 6 months Simple Imprisonment.
	468 IPC	To undergo three years Simple Imprisonment and pay a fine of Rs.5,000/- in default to undergo 6 months Simple Imprisonment.



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<i>Rank of the accused</i>	<i>Conviction under section</i>	<i>Sentence Awarded</i>
	477A IPC	To undergo three years Simple Imprisonment
A1	408 IPC	To undergo three years Simple Imprisonment and pay a fine of Rs.5,000/- in default to undergo 6 months Simple Imprisonment.
	120 (B) r/w. 13(2) r/w.13(1)(c) of P.C.Act	To undergo four years Simple Imprisonment and pay a fine of Rs.5,000/- in default to undergo 6 months Simple Imprisonment.
A2	409 IPC	To undergo three years Simple Imprisonment and pay a fine of Rs.5,000/- in default to undergo 6 months Simple Imprisonment.
	13(2) r/w.13(1)(c) of P.C.Act	To undergo four years Simple Imprisonment and pay a fine of Rs.5,000/- in default to undergo 6 months Simple Imprisonment.

The Trial Court ordered the period of sentences to run concurrently. Total fine amount of Rs.20,000/- each has already been paid by the petitioners.

2. The learned counsel appearing for the petitioners/appellants submitted that the alleged case of the prosecution is that the date of birth of A1, after joining service was alerted from 15.06.1948 to 05.03.1950 and thereby, he had gained additional service of two years and made pecuniary advantage to a tune of Rs.3,48,233/- which is proportionate



wrongful loss caused to the Society. As far as the second accused is concerned who being the Special Officer of the Society had provided the wrong date of birth of A1 for his Family Welfare Scheme and aided A-1.

3. Learned counsel for the petitioners would submit that the birth certificate furnished by A1 is genuine and prosecution case is not proved that Ex.P24 which discloses the Date of Birth as 05.03.1950 is the false entry. But their contention is that the School Certificate of A1 and Service Records go to show that his Date of Birth is 15.06.1948. The trial Court has not taken note of the fact that the father of A1 had eight children and A1 was not born on 15.06.1948 but on 05.03.1950.

4. The learned Government Advocate had filed a detailed counter stating that though Ex.P24 is a genuine document but the entry does not relates to A1, it relates to brother of A1. Taking advantage of the fact that name of the child not been mentioned in the Birth Register, the accused had altered his Date of Birth after joining service to gain two year of extra service.

5. Considering the submission and taking note of the fact that there are some disputed facts based on the document raised in the appeal, the sentence suspended till the disposal of the appeals and the



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petitioners are directed to be enlarged on bail on condition that the petitioners shall execute a bond for a sum of Rs.1,00,000/- [Rupees One lakh only] with two sureties each for a like sum to the satisfaction of the learned Special Judge/Chief Judicial Magistrate, Namakkal and on further condition that the petitioners shall appear before the trial Court on the first working day of every English Calendar Month at 10.30 a.m. until further orders.

14.09.2023

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To

1. The Special Judge/Chief Judicial Magistrate,
Namakkal.
2. Inspector of Police,
Vigilance and Anti Corruption,
Namakkal.
3. The Public Prosecutor,
High Court of Madras, Chennai.



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Dr.G.JAYACHANDRAN,J.

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