



Crl.M.P.No.15731 of 2023

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2023

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.M.P.No.15731 of 2023
in Crl.A.No.1064 of 2023

John @ John Ponnaiya

... Petitioner/Appellant

Vs.

State Represented by,
The Inspector of Police,
Vigilance and Anti-Corruption,
City Special Unit - I,
Chennai.

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) & 439 of Cr.P.C., pleased to suspend the sentence imposed on the petitioner in C.C.No.1 of 2017 dated 28.08.2023 passed by the learned Special Judge under the Prevention of Corruption Act, 1988, Chennai and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

For Petitioner : Mr.Bharathy

For Respondent : Mr.S.Udaya Kumar



WEB COPY



Crl.M.P.No.15731 of 2023

Government Advocate (Crl.Side)

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner/appellant, seeking suspension of sentence of imprisonment, imposed by the learned Special Judge, Special Court for the Cases under Prevention of Corruption Act, 1988, Chennai, vide judgment in C.C.No.1 of 2017 dated 28.08.2023.

2. The case of the prosecution is that the *de facto* complainant one Jesuraj Santiago, who was running a labour law legal consulting company at Chakrapani Road, Guindy, had applied for Metro Water and Sewage connection for his house situated at No.6, 17th Street Extension, Tansi Nagar, Velachery, Chennai – 42 at CMWSSB Head Office. On 06.02.2015, at about 15.00 hours, the petitioner herein (A2) and A1 introduced themselves to the *de facto* complainant that they were working as field workers at Metro Water Velachery and started the work. Thereafter, A1 and A2 demanded a sum of Rs.10,000/- and Rs.6,000/- respectively from the *de facto* complainant as illegal gratification other than legal remuneration. When the *de facto* complainant informed the accused that he had paid the charges to the



Crl.M.P.No.15731 of 2023

Chennai Corporation, both the accused left the place without completing the work. Once again on 12.02.2015 at about 16.00 hours, when the *de facto* complainant pleaded with the accused to complete the work, the accused reiterated the demand and threatened the *de facto* complainant stating that he should pay the amount on 13.02.2015, failing which, they would disconnect the water and sewage connection. Since the *de facto* complainant was not willing to pay the bribe money, had lodged a complaint before DVAC on 12.02.2015 and based on his complaint, a case was registered by the respondent in Crime No. 2/AC/2015/CC-I under Section 7 of Prevention of Corruption Act 1988.

3. During the trap proceedings organised by the Trap Laying Officer, on 13.02.2015, at about 13.50 hours, the first accused had reiterated his earlier demand of Rs.10,000/- for himself and a sum of Rs.6,000/- for the second accused to the *de facto* complainant and obtained the same from the *de facto* complainant in the presence of the official witness Mr.Gopal, counted in both hands and kept in his left side pocket of his shirt. Thereby, A2 being a public servant by corrupt and illegal means and by abusing his official position obtained a sum of Rs.6,000/- as pecuniary advantage from



Crl.M.P.No.15731 of 2023

the *de facto* complainant through A1. Therefore, both the accused were arrested and remanded to Judicial Custody. After completion of the investigation, Charge Sheet against the accused was filed under Section 7 and 13(2) r/w 13(1) (d) of the Prevention of Corruption Act, 1988.

4. The case was taken up for trial in C.C.No.1 of 2017 on the file of the learned Special Judge, Special Court for the Cases under Prevention of Corruption Act, 1988, Chennai. Both the accused were tried together and during trial, on the side of prosecution, PW1 to PW9 were examined and Ex.P1 to Ex.P16, M.O.1 to M.O.5 were marked. When questioning the accused, they had denied the charges and on the defence side, DW1 was examined as witness and Ex.D1 was marked. After hearing the arguments, the trial Court found the appellant/accused guilty and convicted them as follows :-

<i>Under Section</i>	<i>Sentence</i>
7 of Prevention of Corruption Act, 1988	three years of rigorous imprisonment and a fine of Rs.1,000/-, in default, to undergo three months simple imprisonment.
13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988	Four years of rigorous imprisonment and a fine of Rs.1,000/-, in default, to undergo three months rigorous imprisonment.



Crl.M.P.No.15731 of 2023

Against which, the present Criminal Miscellaneous Petition has been filed.

5. Learned Counsel appearing for the petitioner/appellant submitted that even as per the prosecution and the witnesses, the entire work had been completed as early as 04.02.2015, however, the *de facto* complainant, who was supposed to pay wages for the labourers, had not paid the same and given a false complaint, as if the accused had demanded him a bribe. He further submitted that the petitioner/appellant, in order to prove that the work was completed earlier and no demand made by him, had let in evidence by examining DW1 and also by marking Ex.D1. He also submitted that the petitioner/appellant has also remitted the fine amount before the Court concerned. He further submitted that the petitioner is now confined in Central Prison, Puzhal, Chennai.

6. Further, according to the learned Counsel for the petitioner/appellant, the petitioner/appellant has got a good case on merits and there are arguable points available in the Criminal Appeal, which is not likely to be taken for final hearing in the near future and the petitioner/appellant has got a fair chance of succeeding in the Criminal Appeal and hence, the sentence imposed against the petitioner/appellant may



Crl.M.P.No.15731 of 2023

be suspended and the petitioner/appellant may be enlarged with bail.

7. The respondent Police has filed a detailed counter.

8. Learned Government Advocate (Crl.Side) appearing for the respondent submitted that the prosecution has proved the case beyond all reasonable doubts by examining PW.1 to PW.9 and by marking Ex.P1 to Ex.P16 and MO.1 to M.O.5. He further submitted that the trial Court, after carefully analysing the evidence found the petitioner/appellant guilty and convicted him as stated above. Therefore, he vehemently opposed for grant of suspension of sentence and bail.

9. Heard the learned counsel for the petitioner/appellant and learned Government Advocate (Crl.Side) appearing for the respondent and perused the materials on record.

10. Considering the facts and circumstances of the case and also considering the submissions made by the learned counsel for the petitioner/appellant, this Court is of the view that the sentence of



Crl.M.P.No.15731 of 2023

imprisonment can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Appeal, suspension of sentence and bail are granted, on the following conditions :-

- i. The petitioner/appellant shall execute 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 Special Judge, Special Court for the Cases under the Prevention of Corruption Act, 1988, Chennai;
- ii. The petitioner/appellant shall appear before the trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

11. Accordingly, the Criminal Miscellaneous Petition stands ordered.

29.11.2023

ham

Note : Issue order copy today (29.11.2023)



WEB COPY



Crl.M.P.No.15731 of 2023

A.D.JAGADISH CHANDIRA, J.

ham

To

1. The Special Judge,
Special Court for the Cases under Prevention of Corruption Act,
Chennai.
2. The Superintendent,
Central Prison,
Puzhal, Chennai,
3. The Inspector of Police,
Vigilance and Anti-Corruption,
City Special Unit - I,
Chennai.
4. The Public Prosecutor,
High Court of Madras.

Crl.M.P.No.15731 of 2023
in
Crl.A.No.1064 of 2023

29.11.2023

4/4