



Crl.M.P.No.16673 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2023

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

Crl.M.P.No.16673 of 2023
in Crl.A.No.1139 of 2023

I.Vaidehi

... Petitioner/Appellant

Vs.

State Represented by,
The Inspector of Police,
Vigilance and Anti-Corruption,
Chennai City - I Detachment,
Chennai - 600 028.

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) & 439 of Cr.P.C., pleaded to suspend the sentence imposed by the learned Special Judge, Special Court for the Cases under Prevention of Corruption Act, 1988, Chennai – 600 104 in C.C.No.1 of 2016 dated 29.09.2023 and enlarge the petitioner on bail.

For Petitioner : Mr.John Sathyan
for M/s.Dr.M.Ravi
For Respondent : Mr.C.E.Pratap
Government Advocate (Crl.Side)



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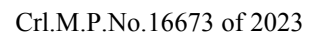


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ORDER

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 2016 dated 29.09.2023.

2. The case of the prosecution is that the *de facto* Complainant U.Ahamed Subair (PW-2), who is an inhabitant of No.184/102, Pycrofts Residency, Bharathi Salai, Royapettah, Chennai-14, is a pilot in Air Arabia Airlines, Sharjah and he had approached the appellant/accused on 13.01.2015 at about 10.45 hrs at the Triplicane Sub-Registrar Office, Royapettah, Chennai to register his marriage with Ms.Ashra Benazir and to obtain the Marriage Registration Certificate. To this end, he submitted his application along with relevant document with the appellant/accused at 10.45hrs. After receiving the application, the accused had demanded illegal gratification of Rs. 3,000/- from the *de facto* complainant to process the said application for the marriage registration and to issue the same. When the *de facto* Complainant had told that the fees is only Rs.3/- and why she is



3. When the *de facto* Complainant submitted a fresh application at on 13.01.2015, the appellant/accused had again reiterated her earlier of Rs.3,000/- and when the *de facto* complainant had expressed his to give it, the appellant/accused had reduced her demand to /- and had threatened that he should meet her with the said money .2015 by noon failing which he would not get his marriage e. Unwilling to pay the bribe amount, the *de facto* complainant complaint (Ex.P5) on 19.01.2015 before DVAC and based on his t, a case was registered in Vigilance and Anti-Corruption, Chennai Detachment Crime No. 01/AC/2015/CC-I under Section 7 of on of Corruption Act 1988 by the Inspector of Police D. Suganya, FIR is Ex.P13). The copy of the FIR was given to PW-2 and his was obtained (Ex.P7). Hence, the case.



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4. The Inspector of Police, D. Suganya, PW-8 had Organized the trap proceedings on 19.01.2015 in the presence of two official witnesses Kunasekaran (PW-3) and Ethirajulu (LW-3). After following all the pre trap proceedings, the tainted trap amount of Rs.2,000/- (500 x 4) was entrusted to the *de facto* complainant with a strict instruction that he should give the tainted money to appellant/accused only on her demand and to show the signal of wiping his face with his hand kerchief and keeping the hand kerchief again into his pant pocket. The Entrustment Mahazar (Ex.P6) which was prepared for the proceedings from 11.15 hrs to 12.15 hrs was signed by both the official witnesses (PW-3 and LW-3), *de facto* complainant (PW-2) and Trap Laying Officer (PW-8).

5. During the trap proceedings on 19.01.2015 the appellant/accused had reiterated her earlier demand of Rs.2,000/- at about 13.45 hrs from the *de facto* complainant in the presence of Ethirajulu (LW-3) and received it with her right hand and kept it in her hip and had promised that she would arrange for the marriage certificate. Upon receiving the signal at 15.00 hrs from the *de facto* complainant (PW2), the TLO (PW-8), official witness Kunasekaran (PW-3) and the trap team approached the *de facto*



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complainant and LW-3 who had narrated about the demand and acceptance by the appellant/accused and identified the appellant/accused. The phenolphthalein test was conducted on her right hand fingers which turned pink colour which was collected in a 180 ml glass bottle (MO-2) and labelled and signed by the both official witnesses, Trap Laying Officer and the Accused Officer. The amount seized from the accused tallied with that of the cash (MO-1) which was noted in the Entrustment Mahazar (Ex.P6). The entire proceedings was noted in Seizure Mahazar (Ex.P10) in which both official witnesses, Trap Laying Officer and accused have signed. Rough Sketch (Ex.P15) of the scene of occurrence was signed by the TLO and two official witnesses. The accused was arrested and remanded to Judicial Custody. After completion of the investigation by PW-9, Charge Sheet against the accused was filed under Section 7 and 13(2) r/w 13(1) (d) of Prevention of Corruption Act, 1988. During the Trial PW1 to PW9 were examined and Ex.P1 to Ex.P18, MO -1 and 2 were marked.

6. The case was taken up for trial in C.C.No.1 of 2016 on the file of the learned Special Judge, Special Court for the Cases under Prevention of Corruption Act, 1988, Chennai. After hearing the arguments, the trial Court



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found the appellant/accused guilty and convicted her 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.

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

7. Mr.John Sathyan, learned Senior Counsel appearing for the petitioner submitted that the trial Court has failed to take into account the evidence of PW2 where he has stated that he was not aware of the mandatory wait period of one month from the date of submission of the Application. He further submitted that the trial Court has also failed to appreciate the fact that PW7, who issued the Receipt (Ex.P4), has stated that the application submitted by the de facto complainant (PW2) was defective and it was returned and that PW2 insisted on issuance of certificate on an urgent basis and the petitioner/appellant told PW2 that the certificate can be issued only after the end of notice period of 30 days which enraged PW2 and he stated that he knew the way to get the certificate immediately.



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8. He further submitted that from the evidence of PW7, the Trap Laying Officer is stated to have searched for the bribe amount in the office till 6.00 p.m., and thereby, it is clear that the bribe amount was not recovered from the hands of the petitioner/appellant and later it was thrust into the hands of the petitioner. He also submitted that the petitioner has also remitted the fine amount before the Court concerned. He further submitted that the petitioner is now confined in Special Prison for Women, Puzhal, Chennai – 600 066.

9. Further, according to the learned Senior Counsel for the petitioner/appellant, 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 be suspended and the petitioner/appellant may be enlarged with bail.

10. The respondent Police has filed a detailed counter.



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11. Learned Government Advocate (Crl.Side) appearing for the respondent submitted that the prosecution has proved the case beyond reasonable doubts by examining PW-1 to PW-9 and by marking Ex.P1 to Ex.P18 and MO.1 and M.O.2. He further submitted that the trial Court, after carefully analysing the evidence found the petitioner/appellant guilty and convicted her as stated above. Therefore, he vehemently opposed for grant of suspension of sentence and bail.

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

13. 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 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 :-



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- i. The petitioner/appellant shall execute bond for a sum of Rs.50,000/- (Rupees Fifty 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 - 104;
- 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.

14. Accordingly, the Criminal Miscellaneous Petition stands ordered.

15.11.2023

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Note : Issue order copy today (15.11.2023)



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A.D.JAGADISH CHANDIRA, J.

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To

1. The Special Judge,
Special Court for the Cases under Prevention of Corruption Act,
Chennai - 104.
2. The Superintendent,
Special Prison for Women,
Puzhal, Chennai – 600 066,
3. The Inspector of Police,
Vigilance and Anti-Corruption,
Chennai City - I Detachment,
Chennai 600 028.
4. The Public Prosecutor,
High Court of Madras.

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in
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