



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

Tuesday, the Twenty Eighth day of March Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.4957 of 2023
in
CRL A(MD) No.242 of 2023

V.S.VALLIAPPAN

... Petitioner / Appellant

Vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE
VIGILANCE AND ANTICORRUPTION WING,
TIRUCHIRAPPALLI,
TIRUCHIRAPPALLI DISTRICT.
(CRIME NO.14/2002)

... Respondent / Respondent

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to enlarge the petitioner on bail by suspending the sentence imposed upon him in Special Case No.49/2011 on the file of the Learned Special Judge for Trial of Cases under Prevention of Corruption Act, Tiruchirappalli, Tiruchirappalli District, by Judgment dated 15.03.2023.

Prayer in CRL A(MD). 242/ 2023 :

To call for the records in Special Case No.49 of 2011 on the file of Learned Special Judge for Trial of Cases Under Prevention of Corruption Act, Tiruchirappalli, Tiruchirappalli District, and set aside the Judgement dated 15.03.2023 and acquit the Accused No.1/Appellant of the Charges.

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.SURESH KANNAN C, Advocate for the petitioner and of Mr.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor, on behalf of the Respondent, while admitting the Criminal Revision Petition, the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the learned Special Judge for Trial of Cases under the Prevention of Corruption Act, Tiruchirappalli, in Special Case No.49 of 2011, dated 15.03.2023, and for the disposal of this Criminal Appeal.



2. The case of the prosecution is that the petitioner, the accused, who was working as D.E.E.O., Trichy District, and the accused 2 to 4 had demanded bribe from the defacto complainant for the approval of her service in B.H.E.L., Tamil Medium Middle Kailasapuram, Trichy and that the petitioner and the accused 2 to 4 had obtained a sum of Rs.7,000/- from the defacto complainant and on that basis, FIR came to be registered in Crime No.14 of 2002 for the offence under Section 7 of Prevention of Corruption Act, 1988. Subsequently, the case was altered into Sections 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act.

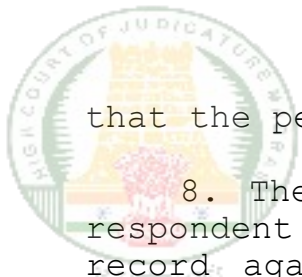
3. The respondent police, after completing the investigation, has filed the final report for the offences under Sections 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 against four persons including the petitioner and the case was taken on file in Special Case No.49 of 2011 and the same was pending on the file of the learned Special Judge for Trial of Cases under the Prevention of Corruption Act, Tiruchirappalli.

4. During trial, the prosecution has examined 19 witnesses as P.W.1 to P.W.19, exhibited 26 documents as Ex.P.1 to Ex.P.26 and marked 12 material objects as M.O.1 to M.O.12. The defence has examined 1 witness as D.W.1 and exhibited 6 documents as Ex.D.1 to Ex.D.6.

5. When the case was pending trial, the accused 2 and 3 were died and hence, the charges as against them were ordered to be abated.

6. The learned Special Judge, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the impugned judgment dated 15.03.2023 finding the petitioner/first accused guilty for the offences under Sections 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act and sentenced him to undergo 1 year Rigorous Imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo further 6 months Simple Imprisonment for the offence under Section 7 of Prevention of Corruption Act and to undergo 3 years Rigorous Imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo further 6 months Simple Imprisonment for the offences under Sections 13(2) r/w 13(1)(d) of Prevention of Corruption Act and that the above sentences were ordered to be run concurrently. The Trial Court has suspended the sentence imposed on the petitioner till 13.04.2023. Challenging the above said conviction and sentence, the first accused has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

7. The learned counsel appearing for the petitioner would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He would further submit



that the petitioner has already paid fine amount.

8. The learned Additional Public Prosecutor appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

9. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

10. The learned counsel appearing for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

11. Accordingly, the relief of suspension of sentence is granted to the petitioner on the following conditions:-

(i) The petitioner shall execute a 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 for Trial of Cases under Prevention of Corruption Act, Tiruchirappalli, Tiruchirappalli District;

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iii) The petitioner shall appear before the concerned Court once in a month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

sd/-
28/03/2023

/ TRUE COPY /

/04/2023

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



To

1.The Special Judge for Trial of Cases
Under Prevention of Corruption Act,
Tiruchirappalli, Tiruchirappalli District.

2.The Inspector of Police,
Vigilance and Anti-Corruption Wing,
Tiruchirappalli,
Tiruchirappalli District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.C.SURESH KANNAN, Advocate (SR-4990[I] dated 28/03/2023)

ORDER

IN

CRL MP(MD) No.4957 of 2023
in

CRL A(MD) No.242 of 2023
Date :28/03/2023

ED/VR/SAR-3 (05/04/2023) 4P 5C