



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

Monday, the Twenty Seventh day of March Two Thousand and
Twenty Three

WEB COPY

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.4932 of 2023
IN
CRL A(MD) No.237 of 2023

S.ABBAS MANTHIRI

... PETITIONER/APPELLANT/
ACCUSED

Vs

THE STATE REP.BY
THE DEPUTY SUPERINTENDENT OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
RAMANATHAPURAM DISTRICT.
(CR NO.10/2005)

... RESPONDENT/RESPONDENT/
COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the Sentence imposed by the Judgment dt.28.02.2023 made in Spl CC No.8/2007 on the file of Special Judge Cum Chief Judicial Magistrate Court, Ramanathapuram and enlarge the Petitioners on bail pending disposal of the above appeal.

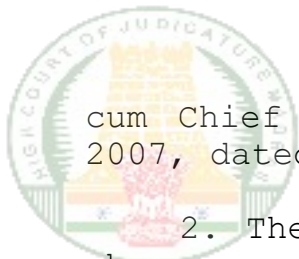
PRAYER IN CRL A(MD)No.237 of 2023:

Pleased to call for the records relating to the Judgment dated 28.02.2023 made in Spl.C.C.No.8 of 2007 on the file of the Special Judge-Cum-Chief Judicial Magistrate Court, Ramanathapuram and set aside the conviction and sentenced imposed against the Appellant and allow above appeal by acquitting Appellant.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.K.ALTHAF SHERIFF, Advocate for M/S.AJMAL ASSOCIATES, for the petitioner and of Mr.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondent, While admitting the Criminal Appeal, 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

<https://www.mhc.tn.gov.in/judis>



cum Chief Judicial Magistrate, Ramanathapuram, in Spl.C.C. No. 8 of 2007, dated 28.02.2023, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that the petitioner/accused, who was working as a Village Administrative Officer of Valinokkam Group, Kadaladi Taluk, Ramanathapuram District, demanded bribe of Rs.1,000/- from the defacto complainant with respect to grant free house site patta and that on 17.10.2005, the petitioner obtained a sum of Rs.500/- from the defacto complainant and on that basis, FIR came to be registered in Crime No.10 of 2005.

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 against the petitioner and after committal, the case was taken on file in Spl.C.C.No.8 of 2007 and the same was pending on the file of the learned Special Judge cum Chief Judicial Magistrate, Ramanathapuram.

4. During trial, the prosecution has examined 18 witnesses as P.W.1 to P.W.18, exhibited 28 documents as Ex.P.1 to Ex.P.28 and marked 5 material objects as M.O.1 to M.O.5. The defence has exhibited 4 documents as Ex.D.1 to Ex.D.4. The Adangal Register has been exhibited as Ex.C.1.

5. The learned trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the impugned judgment dated 28.02.2023 finding the petitioner guilty for the offences under Sections 7 and 13(1)(d) r/w 13(2) of Prevention of Corruption Act and sentenced him to undergo 1 year Rigorous Imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo 3 months Simple Imprisonment for the offence under Section 7 of Prevention of Corruption Act and to undergo 1 year Rigorous Imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo 3 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 28.03.2023. Challenging the above said conviction and sentence, the accused has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

6. 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.

7. 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 suspension of sentence.



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

9. 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.

10. 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 Special Judge cum Chief Judicial Magistrate Court, Ramanathapuram;

(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/-

27/03/2023

/ TRUE COPY /

27/03/2023

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

CSM

TO

1 THE SPECIAL JUDGE CUM

CHIEF JUDICIAL MAGISTRATE, RAMANATHAPURAM.



2 THE DEPUTY SUPERINTENDENT OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
RAMANATHAPURAM DISTRICT.

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

+1. C.C. to M/S.AJMAL ASSOCIATES, SR.No.4907

ORDER

IN

CRL MP (MD) No.4932 of 2023

IN

CRL A (MD) No.237 of 2023

Date :27/03/2023

SA/SBN/SAR. /27.03.2023/4P/5C