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

Friday, the Ninth day of June Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.8041 of 2023
in
CRL A(MD)No.431 of 2023

SAMITHURAI

... PETITIONER/APPELLANT

Vs

THE STATE REPRESENTED BY
THE DEPUTY SUPERINTENDENT OF POLICE,
VIGILANCE AND ANTI CORRUPTION UNIT,
THANJAVUR, THANJAVUR DISTRICT.
CRIME NO.03/2009.

... 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.08 of 2014 on the file of the Learned Special Judge for Corruption Cases / Chief Judicial Magistrate, Thanjavur at kumbakonam, Thanjavur District, by Judgment dated 30.05.2023 pending disposal of the main Criminal Appeal.

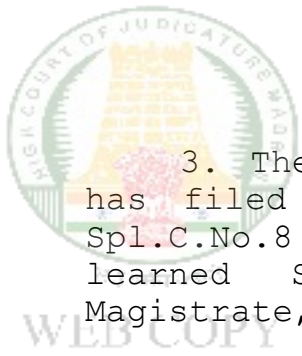
PRAYER in CRL A(MD)No.431 of 2023:

Pleased to call for the records in Special Case No.08 of 2014 on the file of the Learned Special Judge for Corruption Cases/Chief Judicial Magistrate, Thanjavur at Kumbakonam, Thanjavur District, and set aside the Judgment dated 30.05.2023 and acquit the Accused/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.ILAYARAJA R, Advocate for the petitioner and of Mr.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the 1st Respondent while admitting the CRL A., the Court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed by the learned Special Judge for Corruption Cases/Chief Judicial Magistrate, Thanjavur at Kumbakonam, Thanjavur District, in Spl.C.No.8 of 2014, dated 30.05.2023, till the disposal of the appeal.

2. The case of the prosecution is that the petitioner/accused demanded illegal gratification of Rs.500/- from the complainant for registering the FIR and had been delaying the process and on that basis, FIR came to be registered in Crime No.3 of 2009.



3. The respondent police, after completing the investigation, has filed the final report and the case was taken on file in Spl.C.No.8 of 2014 and the same was pending on the file of the learned Special Judge for Corruption Cases/Chief Judicial Magistrate, Thanajvur at Kumbakonam, Thanjavur District.

4. During trial, the prosecution has examined 19 witnesses as P.W.1 to P.W.19, exhibited 28 documents as Ex.P.1 to Ex.P.28 and marked six material objects as M.O.1 to M.O.6. The defence has adduced neither oral nor documentary evidence.

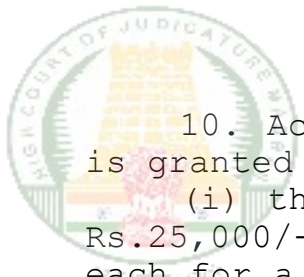
5. The learned Special Judge, upon considering the evidence, both oral and documentary and on hearing the arguments on both the sides, has passed the impugned judgment, dated 30.05.2023 convicting the petitioner/accused for the offence under Section 7 of Prevention of Corruption Act and sentenced him to undergo two years rigorous imprisonment and to pay a fine of Rs.3,000/-, in default, to undergo three months simple imprisonment and convicting the petitioner/accused for the offence under Section 13(1) r/w 13(2) of Prevention of Corruption Act and sentenced him to undergo two years rigorous imprisonment and to pay a fine of Rs.3,000/-, in default, to undergo three months simple imprisonment and further ordered that both the sentences of imprisonment to run concurrently. The Trial Court has suspended the sentence imposed on the petitioner for a period of one month vide order dated 30.05.2023. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

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

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

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 suspension of sentence.



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

(i) the petitioner is directed to 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 Corruption Cases/Chief Judicial Magistrate, Thanjavur at Kumbakonam, Thanjavur District;

(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of any valid identity proof to ensure their identity ;

(iii) The petitioner shall appear before the trial Court once in a month i.e., on the first working day of every English calendar month at 10.30 a.m., until further orders 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/-

09/06/2023

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

das

TO

1 THE JUDGE,
CHIEF JUDICIAL MAGISTRATE/
SPECIAL JUDGE FOR CORRUPTION CASES,
THANJAVUR DISTRICT AT KUMBAKONAM,
THANJAVUR DISTRICT.

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

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

+1. C.C. to M/S.ILAYARAJA R Advocate SR.No.8373

ORDER

IN

CRL MP(MD) No.8041 of 2023

in

CRL A(MD)No.431 of 2023

Date :09/06/2023