



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

Thursday, the Sixth day of July Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.K.RAMAKRISHNAN

CRL MP(MD) No.9623 of 2023
IN
CRL.A(MD) No.505 of 2023

K.MARIMUTHU

... PETITIONER/APPELLANT

Vs

THE INSPECTOR OF POLICE
VIGILANCE AND ANTI-CORRUPTION,
PUDUKKOTTAI DISTRICT.
CRIME NO.4 OF 2013.

... RESPONDENT/RESPONDENT

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 against the Petitioner in Special Calender Case No.2 of 2014 dt.15.6.2023 on the file of the Assistant Sessions Judge (Chief Judicial Magistrate), Pudukkottai till the disposal of the Appeal.

PRAYER IN CRL.A(MD) .505/2023:

Pleased to call for records and set aside the order of conviction and sentence dated 15.06.2023 made in Special Calendar Case No.02 of 2014 on the file of Assistant Sessions Judge (Chief Judicial Magistrate), Pudukkottai by allowing this Appeal.

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.ARUN A.V., Advocate for the petitioner and of Mr.T.SENTHIL KUMAR, 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 passed in Spl.C.C.No.2 of 2014, dated 15.06.2023, on the file of the learned Assistant Sessions Judge (Chief Judicial Magistrate), Pudukkottai, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that the accused is working as a Record Clerk in Sri Bragadhambal Government Higher Secondary



School, Pudukkottai. The defacto complainant lost his Certificate and Mark Sheet. Hence, he approached the accused and sought for duplicate Transfer Certificate and Mark Sheet. On 21.09.2013, he obtained a sum of Rs.1000/- as bribe from the complainant for issuance of duplicate Transfer Certificate and Mark Sheet.

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3. On the basis of the complaint lodged by the defacto complainant, FIR came to be registered in Crime No.4 of 2013.

4. The respondent police, after completing the investigation, has laid a final report for the offences under Sections 7, 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.

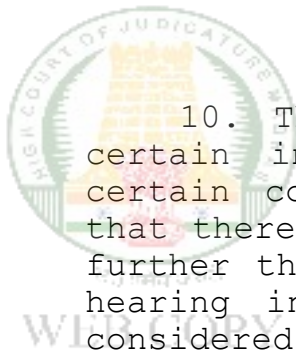
5. During the trial, the prosecution has examined 14 witnesses as P.W.1 to P.W.14 and exhibited 29 documents as Ex.P.1 to Ex.P.29, whereas, the accused has adduced neither oral nor documentary evidence.

6. The learned Sessions Judge, upon considering the evidences adduced and on hearing the arguments on both the sides, has passed the impugned judgment dated 15.06.2023 convicting the petitioner/accused for the offences under Sections 7, 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988, and sentenced him to undergo 4 years Rigorous Imprisonment and to pay a fine of Rs.3,000/-, in default, to undergo 1 year Simple Imprisonment under Section 7 of Prevention of Corruption Act, 1988, and sentenced him to undergo 3 years Rigorous Imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo 1 year Simple Imprisonment under Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988. 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.

7. The learned counsel 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 for the petitioner pointed at 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 Assistant Sessions Judge (Chief Judicial Magistrate), Pudukkottai;

(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.

sd/-

06/07/2023

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

DSS

TO

1 THE ASSISTANT SESSIONS JUDGE,
(CHIEF JUDICIAL MAGISTRATE), PUDUKKOTTAI.

2 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.

3 THE INSPECTOR OF POLICE
VIGILANCE AND ANTI-CORRUPTION, PUDUKKOTTAI DISTRICT.

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

+1. C.C. to M/S.ARUN A.V. Advocate SR.No.10313

ORDER IN

CRL MP(MD) No.9623 of 2023
IN CRL.A(MD) No.505 of 2023
Date :06/07/2023

SA/VR/SAR. /06.07.2023/3P/6C

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