



CRL MP(MD) No.9538 of 2023

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

Friday, the Tenth day of November Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice P.VADAMALAI
CRL MP(MD) No.9538 of 2023
IN
CRL A(MD) No.500 of 2023

A.N.J.RAJAKUMAR

... PETITIONER/ APPELLANT

Vs

State Rep.by
THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION,
NAGERCOIL.
V & AC CR.NO.8/2005

... RESPONDENT/RESPONDENT

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the operation of sentence and conviction order passed by Learned Special Judge cum Chief Judicial Magistrate, Nagercoil till the disposal of this Criminal Appeal.

Prayer in CRL A(MD).500/2023 :

To admit the appeal on file, and to call for the records from the Learned Special Judge - cum - Chief Judicial Magistrate, Nagercoil in Spl.S.C.No.3/2009 dated 21.06.2023 and set aside the same and to acquit the appellant/accused.

Order : This Criminal Miscellaneous petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.D.DHANACHANDRA PRAKASH, Advocate for the petitioner and of MR.B.NAMBI SELVAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

Reserved on : 06.11.2023

Pronounced on : 10.11.2023



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This Criminal Miscellaneous Petition is filed to suspend the sentence and conviction order passed by the learned Special Judge cum Chief Judicial Magistrate, Nagercoil in Spl.S.C.No.3 of 2009, dated 21.06.2023 till the disposal of Criminal Appeal.

2.The case of the prosecution is that the petitioner joined service in Medical Department as Pharmachist in Freeda Moniar Government Hospital, Tirunelvi. It is alleged that the petitioner had been in possession of the properties and pecuniary resources in his name during the check period of 1994 to 1998, which is disproportionate, to his known sources of income to the extent of Rs.5,80,631/-. Therefore, a case was registered in Crime No.8 of 2005 under Sections 13(2) r/w 13(1) (e) of the Prevention of Corruption Act, 1988. After completion of investigation, final report was filed before the Special Judge cum Chief Judicial Magistrate, Kanyakumari District at Nagercoil and the same was taken on file in Spl.S.C.No.3 of 2009.

3.Before the trial Court, on the side of the prosecution, 24 witnesses have been examined as P.W.1 to P.W.24 and 38 documents were marked as Ex.P1 to Ex.P38. On the side of the accused, 3 witnesses were examined as D.W.1 to D.W.3 and 2 documents were marked as Ex.D1 to Ex.D2.

4.The learned Trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the



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impugned judgment dated 21.06.2023 convicting the petitioner for the offence under Section 13(2) r/w 13(1)(e) of the Prevention of Corruption Act, 1988 and sentenced him to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.5,000/-, in default, to undergo simple imprisonment for a period of two months. Challenging the above said conviction and sentence, the petitioner preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

5.The learned counsel for the petitioner would submit that the petitioner paid the entire fine amount and the sentence of imprisonment passed against the petitioner has been suspended by the trial Court till 21.07.2023 and there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses and he prays to allow this petition.

6.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.

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

8.The learned counsel for the petitioner pointed out that certain infirmities and



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inconsistencies in this case and also certain contradictions in material particulars. The Trial Court suspended the sentence imposed against the petitioner till 21.07.2023. 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.

9. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended till the disposal of the appeal on the following conditions:-

(i) The petitioner/Accused is directed to be enlarged on bail on condition that the petitioner/Accused 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-cum-Chief Judicial Magistrate, Nagercoil.

(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/Accused shall appear before the trial Court once in a month i.e., on the first working day of every English calendar month



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at 10.30 a.m., until further orders.

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10/11/2023

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/11/2023

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

vsd

TO

- 1 THE SPECIAL JUDGE CUM CHIEF JUDICIAL MAGISTRATE, NAGERCOIL.
- 2 THE INSPECTOR OF POLICE, VIGILANCE AND ANTI CORRUPTION,
NAGERCOIL.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.J.JEYAKUMARAN, Advocate (SR-16236[I] dated 10/11/2023)

ORDER IN
CRL MP(MD) No.9538 of 2023
IN CRL A(MD) No.500 of 2023
Date :10/11/2023

RS/JGB/SAR-(15.11.2023) 5P 5C
Madurai Bench of Madras High Court is issuing
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