



CRL MP(MD) No.9624 of 2023

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

Wednesday, the Twelfth day of July Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN
CRL MP(MD) No.9624 of 2023
and
CRL A(MD) No.506 of 2023

A.KUMARESAN

... Petitioner / Appellant

Vs

THE DEPUTY SUPERINTENDENT OF POLICE,
CBI, SCB, CHENNAI
(IN RC.9(S)/2010/CBI/SCB/CHN)

... 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 in CC.No.07 of 2012 dated 12.06.2023 on the file of the Additional District Court(CBI Cases), Madurai and enlarge the petitioner on bail, till the disposal of the appeal.

Prayer in CRL A(MD) No.506 of 2023:

To call for the records relating to the judgment passed in C.C.No.07/2012 dated 12.06.2023 on the file of the II Additional District Court (CBI Cases), Madurai and set aside the same and acquit the appellant / accused No.3 from the charges leveled against him.



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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. GOWRISHANKAR.R, Advocate for the petitioner and of Mr.N.MOHIDEEN BASHA, Special Public Prosecutor for CBI Cases on behalf of the Respondent, the court made the following order:-

Heard the learned counsel for the petitioner and the learned Special Public Prosecutor appearing for the respondent.

2. I have perused the petitioner's affidavit filed in support of the above petition, judgment of the trial Court and the memorandum of the appeal.

3. After trial, the petitioner has been convicted and sentenced as under:-

Accused	Offences Punishable	Sentence Imposed
A3	u/s. 120(B) r/w. 420 IPC Section 8 & 13(2) r/w. 13(1)(d) of PC Act	3 years RI with fine of Rs.10000/- i/d 6 months RI

4. According to the prosecution, the petitioner / A3 applied for housing loan for a sum of Rs.5,00,000/- in the name of his ailing mother for constructing a house in her name.

The said amount was not utilised for construction of house. There was no construction in

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the said property. The said amount was diverted for some other purpose. Apart from that, the property also not correctly valued. Hence, there was a default in repayment. In the said circumstances, the investigating Agency registered the case for the alleged offence under Section u/s. 120(B) r/w. 420 IPC Section 8 & 13(2) r/w. 13(1)(d) of PC Act against the petitioner and other accused including the Bank officials.

5. The Investigating Agency conducted an investigation and filed a final report against the number of accused including the petitioner and the petitioner was arrayed as A3. The specific allegation is that A3 and A6 conspired together and obtained loan without any proper valuation of the property and thereby, caused loss to the Bank. On the said allegation, the petitioner has faced the trial. The learned trial Judge, after considering the evidence as well as the documents produced by the Investigating Agency, imposed the conviction and sentence against the petitioner as stated supra.

6. The learned counsel for the petitioner submitted that the original value is correctly given by the valuer and a proper report has also submitted and based on which only, the loan was granted and there was no intention to suppress the fact. Only on re-valuation, the worth of the property was reduced to Rs.70,000/-. Apart from that, he paid the entire loan and the Banking Authority has also issued Ex.D9 “No Objection Certificate” and the same was marked. He further submitted that there are many legal infirmities in the



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conviction recorded by the Trial Court and they are required to be assessed in this appeal during the course of final hearing. So, there is *prima facie* case and hence, he seeks the suspension of sentence of imprisonment in favour of the appellant.

7. The learned Special Public Prosecutor appearing for the respondent would contend that the Trial Court has rightly convicted the petitioner on the basis of the evidence and the petitioner has no *prima facie* case in this appeal.

8. This Court considered the submission of both sides and perused the documents.

9. Since the Bank authorities granted loan after considering the documents obtained from the competent authority and the petitioner settled the entire due amount and the learned Trial Judge also granted interim suspension, this Court considering the several infirmities in the prosecution case brought to the knowledge of this Court by the learned counsel for the petitioner and there are arguable points involved in the appeal and that the appeal is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence and accordingly this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal as against the petitioner with the following

conditions:-

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(i) The petitioner shall execute a bond for Rs.10,000/- (Rupees ten thousand only) with two sureties for the like sum each to the satisfaction of the learned Additional District Court (CBI Cases), Madurai.

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

(iii) The petitioner shall appear before the Court concerned on the first working day of every English Calender month at 10.30 a.m., until further orders.

sd/-
12/07/2023

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/07/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TRP

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To தலைவர் அவர்கள்

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1.The II Additional District Judge (CBI Cases),
Madurai.

2.The Deputy Superintendent of Police,
CBI, SCB, Chennai.

3.The Special Public Prosecutor for CBI Cases,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.R.GOWRISHANKAR, Advocate (SR-10598[I] dated 12/07/2023)

ORDER
IN
CRL MP(MD) No.9624 of 2023
and
CRL A(MD) No.506 of 2023
Date :12/07/2023

ED/DD/SAR- (19/07/2023) 6P / 5C

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