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

Monday, the Eleventh day of September Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN
CRL MP(MD) No.10279 of 2023
in
CRL A(MD)No.563 of 2023

A.JESURAJ

... APPELLANT/ACCUSED NO.14

Vs

THE STATE REPRESENTED BY
THE DEPUTY SUPERINTENDENT OF POLICE,
CBI, SCB,
CHENNAI.

... COMPLAINANT/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 sentence of Rigorous Imprisonment for 3 year term imposed by the Learned II-Additional District Judge(CBI Cases),Madurai District in CC.No.07 of 2012 by the Judgment dt.23.6.2023 and enlarge the Petitioner/ Appellant on bail, pending disposal of the above said Criminal Appeal.

PRAYER in CRL A(MD)No.563 of 2023:

To call for the records and set aside the order of conviction and sentence passed in C.C.No.07 of 2012 dated 12.06.2023 by the learned II Additional District Court(CBI Cases) under PC Act, 1988, Madurai, Madurai District and allow this appeal and Acquit the Appellant/ Accused No.14 from the charges leveled against him.



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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 Mr.R.ANAND, Advocate for 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:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed in C.C.No.7 of 2012, dated 12.06.2023, on the file of the II Additional District Court (CBI Cases), Madurai, Madurai District and enlarge the petitioner on bail till the disposal of this Criminal Appeal.

2. The case of the prosecution is that the petitioner/A14 applied for housing loan of Rs.10 lakhs by furnishing false and inflated details of assets, income etc., before the Syndicate Bank, Dindigul Main Branch, Dindigul District. Knowing the said fact, A6 processed the loan proposal of the petitioner by using their official position as a public servant and sanctioned Rs.8,05,000/- and also disbursed the amount in four installments to his account. The said amount was withdrawn by the petitioner. By using the portion of the amount, he has constructed a name sake substandard house worth about Rs.1,25,000/-and also failed to pay EMI. During the



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course of revaluation made by the Bank, it was found that the petitioner had made substandard construction in the house site and the vacant site is only worth about Rs.10,000/-. The valuation report was not obtained with true particulars. Subsequently, there was default in making the payment of Rs.10,10,000/-. Thereby, the petitioner caused loss to the Syndicate Bank, Dindigul Main Branch, Dindigul District. Therefore, a complaint was made to the respondent police.

3. On the basis of the complaint given by the defacto complainant, FIR came to be registered in Crime No.RC9(S)/2010/CBI/SCB/CHN).

4. The respondent police, after completing the investigation, has laid a final report before the II Additional District and Sessions Judge, (CBI Case), Madurai, for the offences under Sections 120(B) r/w 420 IPC and Section 8 & 13(2) r/w 13(1)(d) of PC Act, 1988, Section 420 IPC and Section 8 of P.C.Act, 1988, against the petitioner and the same was taken on file in C.C.No.7 of 2012.

5. During the trial, the prosecution has examined 27 witnesses as P.W.1 to P.W.27 and exhibited 76 documents as Ex.P.1 to Ex.P.76. On the side of the defence, D.W.1 and D.W.2 were examined and Ex.D.1 to Ex.D.9 were marked.

6. The learned trial Judge, upon considering the evidences adduced and on hearing the arguments on both the sides, convicted and sentenced the petitioner by the impugned judgment dated 12.06.2023 for the following offences:-



Accused	Offences Punishable	Sentence Imposed
A14	i) U/s. 120(B) r/w. 420 IPC Section 8 & 13(2) r/w. 13(1)(d) of PC Act, 1988. ii) U/s. 420 IPC. iii) U/s. 8 of P.C.Act, 1988.	i) 3 years RI with fine of Rs.20,000/- i/d 6 months RI. ii) 3 years RI with fine of Rs.20,000/- i/d 6 months RI. iii) 3 years RI with fine of Rs.20,000/- i/d 6 months RI.

7. The learned counsel for the petitioner submitted that the original value is correctly given by the valuer and a proper report has also been 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. He further submitted that there are many legal infirmities in the conviction recorded by the Trial Court and they are required to be assessed in this appeal during the course of final hearing. Further, he undertakes to deposit a sum of Rs.3 lakhs (Rupees Three Lakhs Only) to show his *bona fide* before the Court below. He is also in custody and the co-accused were also released by this Court on various occasions. Hence, he seeks the



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8. 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.

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

10. Considering the submission of the learned counsel for the petitioner that the petitioner is a borrower and without any criminal intention, he obtained loan from the said bank and due to the unavoidable circumstances, he failed to pay the loan and also undertakes to deposit a sum of **Rs.3,00,000/- (Rupees Three Lakhs Only)** and also similarly placed co-accused (namely borrower) granted suspension of sentence in the connected appeals and he also confined in prison and there are arguable points involved in the appeal and 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:-

(i) **The petitioner** shall deposit a sum of **Rs.3,00,000/- (Rupees Three Lakhs Only)** to the credit of C.C.No.7 of 2012 on the file of the learned II Additional District Judge (CBI Cases), Madurai District, **within a period of four weeks from**



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today, failing which the sentence suspended shall automatically dismissed and the respondent is at liberty to execute the sentence imposed by the trial Court against the petitioner in the manner known to law;

(ii) On such deposit, 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 II Additional District Judge (CBI Cases), Madurai District;

(iii) 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

(iv) 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.

(v) the learned trial Judge is hereby directed to deposit the said amount in any one of the Nationalised Bank in interest bearing account.

11. For reporting compliance, post this matter on **26.09.2023**.

sd/-

11/09/2023

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13/09/2023

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

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- 1 THE II ADDITIONAL DISTRICT JUDGE(CBI CASES),
MADURAI DISTRICT.
- 2 THE DEPUTY SUPERINTENDENT OF POLICE,
CBI, SCB,
CHENNAI.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.R.ANAND, Advocate (SR-13458[I] dated 11/09/2023)

ORDER
IN
CRL MP(MD) No.10279 of 2023
in
CRL A(MD)No.563 of 2023
Date :11/09/2023

SS/13/09/2023/7P/6C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023