



CRL MP(MD) No.11415 of 2023

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

Tuesday, the Thirty First day of October Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.11415 of 2023

in

CRL A(MD) No.704 of 2023

JAYACHANDRAN

... Appellant / Sole Accused

Vs

STATE REP BY
THE INSPECTOR OF POLICE
VIGILANCE AND ANTI-CORRUPTION,
VIRUDHUNAGAR DISTRICT.
(CRIME NO.7 OF 2004.)

... Respondent / Complainant

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 imposed against the Petitioner by the Learned Special Judge cum Chief Judicial Magistrate Court, Ramanathapuram in Spl.CC.No.1 of 2007 dt.20.6.2023 and enlarge the Petitioner on bail pending disposal of the Criminal Appeal.

Prayer in CRL. A(MD) No.704 of 2023:

To call for the records pertaining to the conviction sentence passed in Spl.CC.No.1 of 2007 on the file of the learned Special Judge-cum-Chief Judicial Magistrate Court, Ramanathapuram dated 20.07.2023 and set aside the same as illegal by acquitting this the appellant.



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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 M/s.F.DEEPAK, Advocate for the petitioner and of Mr.B.NAMBISELVAN, Additiona Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned Special Judge-Cum-Chief Judicial Magistrate Court, Ramanathapuram, in Spl.C.C.No.1 of 2007 dated 20.07.2023 and enlarge the petitioner on bail till the disposal of this Criminal Appeal.

2. The case of the prosecution is that on 29.11.2004 at about 04.00 PM, the petitioner went to the defacto complainant's shop and also demanded bribe from the defacto complainant. The defacto complainant expressed his inability to pay such demand, at that time, the petitioner directed to pay the said amount on 01.12.2004. Thereafter, defacto complainant gave a complaint against the petitioner and the case was registered against the petitioner by the respondent police in Crime No.7 of 2004. After completion of investigation formalities, final report was filed before the concerned Court for the offences under Sections 7 and 13(1)(a) and d r/w 13 (2) of the Prevention of Corruption Act, 1988 and the final report was taken on file in Spl.C.CNo.1 of 2007.

3. Before the trial Court, on the side of the prosecution, 19 witnesses have been examined as P.W.1 to P.W.19 and 25 documents were marked as Ex.P1 to Ex.P25.



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Four materials objects were marked as M.O.1 to M.O.5. On the side of the accused no witnesses was examined and no documents was marked.

4. The learned Special Judge-Cum-Chief Judicial Magistrate Court, Ramanathapuram, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the impugned judgment dated 20.07.2023 by acquitting the petitioner under Section 13(i)(a) r/w 13(2) of Prevention of Corruption Act and convicting the petitioner as follows :

S.No.	Offence	Sentence	Fine	In default sentence
1.	7 of the Prevention of Corruption Act, 1988	2 years rigorous imprisonment	Rs.1,000/-	Two month simple imprisonment
2.	13(2) r/w 13(1) (d) of the Prevention of Corruption Act	Two years rigorous imprisonment	Rs.1,000/-	Two month simple imprisonment

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.

5. The learned counsel for the petitioner would submit that there are several



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infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

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 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.

9. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal with the following directions:-

- (i) The petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two



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sureties, each for a like sum to the satisfaction of the learned Special Judge-Cum-Chief Judicial Magistrate Court, Ramanathapuram,

(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 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.

sd/-
31/10/2023

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/11/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TTA

To

1.The Special Judge-Cum-Chief Judicial Magistrate,
Ramanathapuram.

2.The Inspector of Police,
Vigilance and Anti-Corruption,
Virudhunagar District.



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3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.F.DEEPAAK, Advocate (SR-15693[I] dated 31/10/2023)

ORDER
IN
CRL MP(MD) No.11415 of 2023
in
CRL A(MD) No.704 of 2023
Date :31/10/2023

ED/VRS /SAR- (01/11/2023) 6P / 5C

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