



CRL MP(MD) No.11946 of 2023

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

Friday, the Eighteenth day of August Two Thousand and Twenty Three

PRESENT

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

CRL MP(MD) No.11946 of 2023

IN

CRL A(MD) No.744 of 2023

J.RAJA THOMAS

... PETITIONER/ APPELLANT

Vs

THE DEPUTY SUPERINTENDENT OF POLICE,
CBI:SCB:CHENNAI.

RC 9 (S) /2010

... RESPONDENT/RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to pass an Judgment of suspending the execution of sentence imposed against the petitioner in C.C No. 07/2012 dated 12.06.2023 passed by II Additional District Judge (CBI Cases), Madurai District and enlarge the petitioner on bail.

PRAYER IN CRL.A(MD).744/2023:

Pleased to call for the records and set aside the judgment of the II Additional District Judge (CBI Cases), Madurai District dated 12th June 2023 in C.C.No.7 of 2012.

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.RAJIV RUFUS.V, Advocate for the petitioner and of Special Public Prosecutor for CBI CASES for 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 C.C.No.7 of 2012, dated 12.06.2023, on the file of the II Additional District



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Judge (CBI Cases), 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 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, A5 processed the loan proposal of the petitioner by using their official position as a public servant and sanctioned Rs.8,50,000/- and also disbursed the loan amount in four installments to his account. The said amount was withdrawn by the petitioner. But, he has not utilised the same for constructing the house and also failed to pay EMI. During the course of revaluation made by the Bank, it was found that the petitioner constructed a namesake substandard house by using a portion of the Housing Loan amount and it is only worth about Rs.1,54,000/-. Thereby, the petitioner caused loss of Rs.10,10,000/- to the the Syndicate Bank, Dindigul Main Branch, Dindigul District.

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



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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.

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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
A8	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.



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7. 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. 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. So, there is prima facie case and hence, he seeks the suspension of sentence of imprisonment in favour of the appellant.

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 facts that the petitioner is 65 years old and his right forefoot was amputated with flap cover with split skin graft on 22.06.2023 and he also undertakes to deposit a sum of Rs.5,00,000/- (Rupees Five Lakhs Only) and also similarly placed co-accused (namely borrower) granted suspension of sentence in the connected appeals and also considering the several infirmities in the prosecution case



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brought to the knowledge of this Court by the learned counsel for the petitioner 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.5,00,000/- (Rupees Five 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 today, failing which the sentence suspended shall automatically be 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;



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(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.

11. For reporting compliance, post this matter on 15.09.2023.

sd/-
18/08/2023

/ TRUE COPY /

18/08/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DSS
TO

1 THE II ADDITIONAL DISTRICT JUDGE (CBI CASES) MADURAI DISTRICT.

2 THE DEPUTY SUPERINTENDENT OF POLICE,
CBI:SCB:CHENNAI.

3 THE SPECIAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.



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COPY TO:

THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL MP(MD) No.11946 of 2023
IN
CRL A(MD) No.744 of 2023
Date :18/08/2023

SA/SAR. /18.08.2023/7P/5C

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