



CRL.M.P.(MD)No.12156 of 2023

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

Wednesday, the Twenty Third day of August Two Thousand and Twenty Three

PRESENT

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

CRL.M.P.(MD)No.12156 of 2023

in

CRL.A.(MD)No.521 of 2023

1 PAUL JOHNSON

2 JESUVIN FEBI

... PETITIONERS/ APPELLANTS/ A1

Vs

THE STATE REP.BY,
THE DEPUTY SUPERINTENDENT OF POLICE,
CBI, SCB, CHENNAI.
(RC 9(S) OF 2010)

... RESPONDENT/RESPONDENT/
COMPLAINANT

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 upon the appellant by the judgment dated 12.06.2023 made in C.C.No.7 of 2012 on the file of II Additional District Court (CBI Cases), Madurai and enlarge the appellant on bail pending disposal of the above appeal.

PRAYER IN CRL.A.(MD)No.521 of 2023:

To call for the records relating to the Judgment dated 12.06.2023 made in C.C.No.7 of 2012 on the file of II Additional District Court(CBI Cases), Madurai and set aside the conviction and sentence imposed against the Appellants and allow above appeal by acquitting the Appellants.



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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 MR.AJMAL KHAN, Senior Counsel for M/S.AJMAL ASSOCIATES., for the petitioner and of M/S.N.MOHIDEEN BASHA, Special Public Prosecutor 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 learned II-Additional District Judge (CBI Cases), Madurai and enlarge the petitioner on bail till the disposal of this Criminal Appeal.

2. The case of the prosecution is that the petitioner is the first accused in the C.C.No.7 of 2012 on the file of the learned II-Additional District Judge (CBI Cases), Madurai. A6 is the Branch Manager of the Syndicate Bank, Dindigul Main Branch. The remaining accused A3 to A18 are the borrowers of the said Bank. The case against A5 was quashed by this Court. A7 is the wife of the petitioner. A1 and A6 conspired with the remaining accused and created the forged documents and A6 disbursed the loan to the remaining accused without proper documents. Further, A1 is the instrument in all the said transaction. The loan amount also not utilised by the respective accused for the purpose for which it is granted. So, there was default in payment and hence, the Bank is not initiated proper recovery proceedings, thereby,



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huge loss caused to the Bank. Hence, the respondent police registered for the alleged offence 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, in Crime No.RC9(S)/2010/CBI/SCB/CHN).

3. The respondent police, after completing the investigation, has laid a final report before the learned II-Additional District 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 the Prevention of Corruption Act, 1988, Section 420 IPC and Section 8 of the Prevention of Corruption Act, 1988, against the petitioners and the same was taken on file in C.C.No.7 of 2012.

4. 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.

5. 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:-



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Accused	Offences Punishable	Sentence Imposed
A1	i) U/s. 120(B) r/w. 420 IPC Section 8 & 13(2) r/w. 13(1)(d) of PC Act, 1988.	i) 3 years RI with fine of Rs.10,000/- i/d 6 months RI.
	ii) U/s. 8 of P.C.Act, 1988.	ii) 3 years RI with fine of Rs.20,000/- i/d 6 months RI.

6. The learned Senior counsel for the petitioner submitted that A1 has no role in the process of issuing loan to the various accused in this case. The prosecution has not produced any evidence to prove the offence under Section 8 of the Prevention of Corruption Act against the petitioner. A1 is the husband of the A7 and he only accompanied A7 at the time of the granting loan by A6. In the said circumstances, the conviction and sentence passed by the learned trial Judge is not in accordance with law. He also submitted that his wife (A7) settled the entire loan amount and she got the suspension order. Hence, he seeks for the suspension of sentence.

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.



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

9. Considering the submission of the learned Senior counsel for the petitioner that the petitioner is the husband of the A7-borrower and he only accompanied with his wife and also there was no evidence adduced to prove his involvement in the above crime for the offence under Section 8 of the Prevention of Corruption Act and his wife settled his entire loan amount and the co-accused was already released on bail and also considering the several infirmities in the prosecution case brought to the knowledge of this Court by the learned Senior 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 and the petitioner is in custody, 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 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;

(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/-
23/08/2023

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24/08/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PJL

TO

1.THE II ADDITIONAL DISTRICT COURT(CBI CASES), MADURAI .

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



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

+1 CC to M/s.M/S.AJMAL ASSOCIATES, Advocate (SR-12630[I] dated
23/08/2023)

ORDER
IN
CRL.M.P.(MD)No.12156 of 2023
in
CRL.A.(MD)No.521 of 2023
Date :23/08/2023

RK (24/08/2023) 7P / 5C

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