



CRL.M.P.(MD)No.15301 of 2023

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

Wednesday, the Twenty Second day of November Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice P. VADAMALAI
CRL.M.P.(MD)No.15301 of 2023

in
CRL.A.(MD)No.562 of 2023

S.SUNDARESAN

... PETITIONER/ ACCUSED NO.17

Vs

THE DEPUTY SUPERINTENDENT OF POLICE,
CBI SCB, CHENNAI (RC 9(S) /2010) ... 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 by the II Additional District court (CBI Cases) Madurai in C.C No. 07 of 2012 vide judgment dt. 12.06.2023 pending disposal of the main criminal appeal pending on the file of this Honble court

PRAYER IN CRL.A.(MD)No.562 of 2023:

To call for the entire records pertaining to the judgment delivered by the II Additional District Court(CBI Cases), Madurai in C.C.No.07 of 2012 vide judgment dated 12.06.2023 and set aside the same and consequently acquit the appellant honourably.

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.ANAND.R, Advocate for the petitioner and of MR.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 imposed by the learned Additional District Judge (CBI Cases), Madurai in C.C.No.07 of 2012 dated 12.06.2023 pending disposal of the Criminal Appeal.



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2. The case of the prosecution is that the petitioner/A17 applied for housing loan of Rs.8,25,000/- 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.8,25,000/- 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 The said amount was withdrawn by the petitioner.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.1,42,000/- and also failed to pay EMI. Thereby, the petitioner caused loss of Rs.8,95,000/- to the Syndicate Bank, Dindigul 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 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.



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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
A17	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 and he strongly objected to grant suspension of sentence.

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



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10. Considering the facts that the petitioner is in prison from 08.08.2023 onwards and he obtained loan only from the said bank and also similarly placed co-accused (namely borrower) were granted suspension of sentence in the connected appeal and also 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 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 execute a bond for Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties for the like sum each to the satisfaction of the learned II Additional District and Sessions Judge, (CBI Case), 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.



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(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/-
22/11/2023

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27/11/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

vsd

TO

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



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+1 cc to MR.R.ANAND, Advocate SR-16734

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+1 cc to MR.R.ANAND, Advocate SR-16797

ORDER IN
CRL.M.P.(MD)No.15301 of 2023
in CRL.A.(MD)No.562 of 2023
Date :22/11/2023

RK (23/11/2023) 7P / 7C

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