



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

Thursday, the Second day of February Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.16464 of 2022

IN

CRL A(MD) No.884 of 2022

J.A.KELISTUS RAJKUMAR

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
VIGILANCE AND ANTI-CORRUPTION,
MADURAI DETACHMENT.
CRIME NO.5 OF 2017.

... RESPONDENT/RESPONDENT

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 on the Petitioner in SC.No.2 of 2018 Judgment dt.14.12.2022 passed by the Learned Special Court for trial of Prevention of Corruption Act Cases, Madurai, and enlarge him on bail, pending disposal of the criminal appeal.

PRAYER IN CRL A(MD) No.884/2022:

Pleased to take this criminal appeal on file, call for the records from the Court below, hear the counsel for the appellant/accused, set aside the conviction and sentence passed by the learned Special Judge, Special Court for trial of prevention of Corruption Act Cases, Madurai in Special Case No.2 of 2018 dated 14.12.2022, refund the fine amount.

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.AZAGARSAMI AK, Advocate for the petitioner and of Mr.S.RAVI, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed against the petitioner in S.C.No.2 of 2018, dated 14/12/2022 by the Special Court for Trial of Prevention of Corruption Act Cases, Madurai and enlarge the petitioner on bail pending disposal of the criminal appeal.



2.The case of the prosecution in brief:-

The accused was working as Sub Inspector of Police, Kadupatti Police Station, Madurai and one Kumaravel gave a complaint against one Selvendran and 5 others. On that basis, a case was registered in Crime No.131 of 2017. The above said Selvendiran approached the accused to drop the name of three persons from the above said case, for which the accused is said to have demanded as bribe amount of Rs.30,000/- initially and thereafter, it was reduced to Rs.15,000/- by him. In this regard, a complaint was lodged by the said Selvendiran before the Vigilance and Anti Corruption Wing, Madurai, on 29/05/2017 and a preliminary enquiry was conducted by the Inspector of Police, Vigilance and Anti Corruption Wing, Madurai and a case was registered, on 30.05.2017 and subsequently, trap was arranged and the accused was arrested, while receiving the alleged amount of Rs.15,000/- from the de-facto complainant in front of Kadupatti Police station.

3.After completing the process, final report was filed for the offence under sections 7, 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988 and it was taken cognizance by the trial court in Special Case No.2 of 2018.

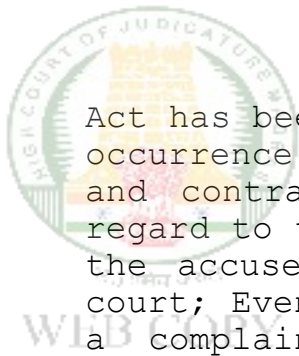
4.During trial process, on the side of the prosecution, 17 witnesses were examined and 33 documents marked, apart from that, 5 materials objects marked. On the side of the accused, neither oral evidence nor documentary has been adduced.

5.At the conclusion of the trial, the trial court found the petitioner guilty and sentenced him to undergo 3 years R/I and imposed a fine of Rs.2,000/- with default clause for the offence under section 7 of the Prevention of Corruption Act, 1988 and to undergo four years R/I and imposed a fine of Rs.2,000/- with default clause for the offence under sections 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988 and directed the accused to run the sentence of imprisonment concurrently.

6.Challenging the above said conviction and sentence, criminal appeal has been preferred before this court. Pending appeal, this miscellaneous petition has been seeking suspension of sentence.

7.Heard both sides.

8.The learned counsel appearing for the petitioner would submit that there was heavy motive between PW2 and the accused; according to the prosecution, a demand was made, on 23/05/2019 and in the meantime, PW2 met the accused several times; even though the CDRs have been collected to show the conversation between PW2 and the accused, no certificate under section 65-A of the Indian Evidence



Act has been obtained and the CCTV footage that was available at the occurrence place I.e., outside in the police station was not seized and contradictory evidence has been led by the prosecution with regard to the very place of occurrence; Even though the statement of the accused was obtained, that was not produced before the trial court; Even as per the evidence of the de-facto complainant, he made a complaint to the Superintendent of Police, which was also addressed to the Inspector of Police. So according to him, these discrepancies have not been properly appreciated by the trial court.

9.Per contra, the learned Additional Public Prosecutor would submit that there is a clear evidence with regard to the above said demand, acceptance and that was also accepted by the trial court and CDRs details have been obtained and produced. So according to him, no indulgence need be shown to the accused.

10.In reply to the above said submission made by the learned Additional Public Prosecutor, the learned counsel appearing for the petitioner would submit that the petitioner is in custody ever-since from the date of the judgment, I.e., from 14/12/2022.

11.It is a trap case. So naturally the petitioner has to explain the reason for accepting the money. Whether any satisfactory explanation has been offered by the petitioner or not is a matter for consideration in the main appeal. What sort of explanation has been given by the petitioner is also not available on record, since the statement has not been produced before the trial court.

12.No doubt that serious allegation of demanding money for the purpose of deleting some of the persons from the investigation has been made by the petitioner. But however, the fact remains that it will take time to hear the main appeal for disposal. Further, no bad antecedent is also reported against the petitioner.

13.Considering the above said aspect and also considering the fact that it will take time to hear the main appeal for disposal, I am inclined to enlarge the petitioner on bail, by suspending the substantive part of sentence. Accordingly, the suspension of sentence petition is **allowed** and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal on the following conditions:-

(i)the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the Special Court for trial of Prevention of Corruption Act Cases, Madurai; and



(ii) on further condition that the petitioner shall appear before the said Court once in a week i.e., on the first working day of every week at 10.30 am pending appeal.

sd/-

02/02/2023

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02/02/2023

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

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TO

- 1 THE SPECIAL JUDGE,
SPECIAL COURT FOR TRIAL OF PREVENTION OF
CORRUPTION ACT CASES, MADURAI.
- 2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 3 THE INSPECTOR OF POLICE
VIGILANCE AND ANTI-CORRUPTION,
MADURAI DETACHMENT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL MP(MD) No.16464 of 2022
IN

CRL A(MD) No.884 of 2022

Date : 02/02/2023

SA/SSS/SAR. /02.02.2023/4P/5C