



CRL MP(MD) No.16401 of 2023

WEB COPY

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 MP(MD) No.16401 of 2023
in
CRL A(MD) No.1023 of 2023

1 K.RAJENDRAN

2 R.RAMALAKSHMI @ CHANDRA

... PETITIONERS/ APPELLANTS

Vs

State Rep.by
THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION WING,
NAGERCOIL.
(CRIME NO.5/2006).

... RESPONDENT/RESPONDENT

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 and a conviction imposed by the Learned Special Court cum Chief Judicial Magistrate, Kanyakumari District at Nagercoil dt.31/10/2023 in Spl.SC.No.4/2009 and enlarge the petitioner on bail, pending disposal of the main Appeal.

Prayer in CRL A(MD).1023/2023 :

To call for the records and to allow this appeal and set aside the impugned judgment of conviction and sentence passed by the Learned Special Court cum Chief Judicial Magistrate, Kanyakumari District at Nagercoil dated 31.10.2023 in Special S.C.No.4 of 2009.

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 MR.N.DILIPKUMAR, Advocate for the petitioners and of MR.B.NAMBI SELVAN, Additional Public Prosecutor on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-



CRL MP(MD) No.16401 of 2023

WEB COPY

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned Special Court Cum Chief Judicial Magistrate, Kanyakumari District at Nagercoil in S.C.No.4 of 2009 dated 31.10.2023 and enlarge the petitioners on bail till the disposal of this Criminal Appeal.

2. The case of the prosecution is that the first petitioner has received the bribe amount from the general public and purchased several assets in various places and the second petitioner is the wife of the first petitioner. Thereafter, defacto complainant gave a complaint against the petitioners and the case was registered against the petitioners by the respondent police in Crime No.5 of 2006. After completion of investigation formalities, final report was filed before the concerned Court for the offences under Sections 13(2) r/w 13(1) (e) of the Prevention of Corruption Act, 1988 against the first accused/petitioner and Section 3(2) r/w 13(1) (e) of the Prevention of Corruption Act, 1988 and r/w 109 of IPC.

3. Before the trial Court, on the side of the prosecution, 29 witnesses have been examined as P.W.1 to P.W.29 and 48 documents were marked as Ex.P1 to Ex.P48. On the side of the accused, 2 witnesses have been examined as D.W.1 and D.W.2 and 8 documents were marked as Ex.D1 to Ex.D8

4. The learned Special Court Cum Chief Judicial Magistrate, Kanyakumari District at Nagercoil, upon considering the evidence both oral and documentary and



CRL MP(MD) No.16401 of 2023

on hearing the arguments on both the sides, has passed the impugned judgment

WEB COPY

dated 31.10.2023 by convicting the petitioners as follows :

Accused	Offence	Sentence	Fine	In default sentence
First petitioner	13(2) r/w 13(1) (e) of the Prevention of Corruption Act,1988	Three years rigorous imprisonment	Rs.5,000/-	two months simple imprisonment
Second petitioner	13(2) r/w 13(1) (e) of the Prevention of Corruption Act,1988 and r/w 109 of IPC	one year rigorous imprisonment	Rs.5,000/-	two months simple imprisonment

Challenging the above said conviction and sentence, the petitioners have preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

5.The learned counsel for the petitioners would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He further submitted that the trial Court suspended the sentence till 30.11.2023.

6.The learned Additional Public Prosecutor appearing for the respondent would submit that there are enough materials available on record against the



CRL MP(MD) No.16401 of 2023

petitioners and hence, he strongly opposed to grant suspension of sentence.

WEB COPY

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 petitioners 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 petitioners herein are 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 petitioners are directed to be enlarged on bail on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties, each for a like sum to the satisfaction of the learned Special Court Cum Chief Judicial Magistrate, Kanyakumari District at Nagercoil.

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of



CRL MP(MD) No.16401 of 2023

their Aadhar card or Bank Pass Book to ensure their identity; and

WEB COPY

(iii) The petitioners 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/-
22/11/2023

/ TRUE COPY /

/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,
KANYAKUMARI DISTRICT AT NAGERCOIL.

2 THE INSPECTOR OF POLICE, VIGILANCE AND ANTI CORRUPTION WING,
NAGERCOIL.

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

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-16792[I] dated 23/11/2023)

ORDER IN

CRL MP(MD) No.16401 of 2023
in CRL A(MD) No.1023 of 2023

Date :22/11/2023

RS/JGB/SAR-(28.11.2023) 5P 5C

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