



CRL.M.P.(MD)No.17108 of 2023

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

Wednesday, the Sixth day of December Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL.M.P.(MD)No.17108 of 2023

in

CRL.A.(MD)No.1070 of 2023

KAMARAJ

... PETITIONER/ APPELLANT/
ACCUSED NO.1

Vs

THE INSPECTOR OF POLICE
VIGILANCE AND ANTICORRUPTION,
VIRUDHUNAGAR.
(CRIME NO.3/2018).

... 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 passed by the Judgment dt.10/11/2023 made in Spl.CC.No.1/2019 on the file of Special Judge cum Chief Judicial Magistrate, Virudhunagar District at Srivilliputhur and enlarge the petitioner on bail pending disposal of the Crl.A.

PRAYER IN CRL.A.(MD)No.1070 of 2023:

To call for the records relating to the judgment dated 10.11.2023 made in Spl.C.C.No.1 of 2019 on the file of Special Judge Cum Chief Judicial Magistrate, Virudhunagar District at Srivilliputhur and set aside the conviction and sentence imposed against the appellant/accused No.1 and allow above appeal by acquitting the accused.



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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.GANDHI, Standing Counsel for M/S.GANDHI ASSOCIATES, Advocate for the petitioner and of MR.B.NAMBI SELVAN, 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 by the learned Special Judge-Cum-Chief Judicial Magistrate, Virudhunagar District at Srivilliputhur, in Spl.C.C.No.01 of 2019 dated 10.11.2023 and enlarge the petitioner on bail till the disposal of this Criminal Appeal.

2. The case of the prosecution is that the petitioner demanded a sum of Rs.5,000/- (Rupees Five Thousand only) through the second accused as bribe amount from the defacto complainant. Thereafter, defacto complainant gave a complaint against the petitioner and the case was registered against the petitioner by the respondent police in Crime No.3 of 2018. After completion of investigation formalities, final report was filed before the concerned Court for the offences under Sections 7 r/w 12 and 13(2) r/w 13 (1)(d) of the Prevention of Corruption Act, and the final report was taken on file in Spl.C.C. No.01 of 2019.



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3. Before the trial Court, on the side of the prosecution, 9 witnesses have been examined as P.W.1 to P.W.9 and 39 documents were marked as Ex.P1 to Ex.P39. Six materials objects were marked as M.O.1 to M.O.6. On the side of the accused no witnesses was examined and 15 documents were marked as Ex.D1 to Ex.D15.

4. The learned Special Judge-Cum-Chief Judicial Magistrate, Virudhunagar District at Srivilliputhur, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the impugned judgment dated 10.11.2023 by convicting the petitioner as follows :

S.No.	Offence	Sentence	Fine	In default sentence
1.	7 r/w 12 of the Prevention of Corruption Act	2 years rigorous imprisonment	Rs.5,000/-	3 months simple imprisonment
2.	13(2) r/w 13(1) (d) of the Prevention of Corruption Act	3 years rigorous imprisonment	Rs.5,000/-	3 months simple imprisonment



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

5. The learned counsel for the petitioner 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 11.12.2023 and this Court has already suspended the sentence to the co-accused.

6. The learned Additional Public Prosecutor appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he opposed to grant suspension of sentence.

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 petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The



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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 and this Court has already suspended the sentence to the co-accused, this Court is of the considered view that the petitioner herein is 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 petitioner is directed to be enlarged on bail on condition that 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 Special Judge-Cum-Chief Judicial Magistrate, Virudhunagar District at Srivilliputhur.

(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



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(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/-
06/12/2023

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/12/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

tta

TO

1.THE SPECIAL JUDGE CUM CHIEF JUDICIAL MAIGSTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

2.THE INSPECTOR OF POLICE
VIGILANCE AND ANTICORRUPTION,
VIRUDHUNAGAR.

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

+1 CC TO M/S.GANDHI ASSOCIATES, Advocate, SR.No.17391 (I) DT.07/12/2023

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ORDER

IN

CRL.M.P.(MD)No.17108 of 2023

in CRL.A.(MD)No.1070 of 2023

Date :06/12/2023

RK/SKN (07/12/2023) 7P / 5C

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