



Crl.M.P.No.3653 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2024

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THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.M.P.No.3653 of 2024
in Crl.A.No.256 of 2024

1. Anil Kumar Meena

2. Suman Meena

... Petitioners/Appellants

Vs.

The Sub-Inspector of Police,
SPE : CBI : ACB,
Chennai.

Crime No.02/AC/2006/ER

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389 of Cr.P.C., pleased to suspend the sentence imposed in C.C.No.39 of 2017 dated 27.02.2024 passed by the learned XIV Additional Special Judge for CBI Cases, Chennai and enlarge the petitioners on bail, pending disposal of the Criminal Appeal.

For Petitioners : Mr.R.Vivekananthan

For Respondent : Mr.K.Srinivasan
Special Public Prosecutor for CBI



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ORDER

This Criminal Miscellaneous Petition has been filed by the petitioners/appellants, seeking suspension of sentence, imposed by the learned XIV Additional Special Judge for CBI Cases, Chennai, vide judgment in C.C.No.39 of 2017 dated 27.02.2024.

2. The conviction and sentence imposed against the first petitioner/A1 is as follows:-

<i>Under Section</i>	<i>Sentence</i>
120B(1) r/w 420 IPC and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988	five years of rigorous imprisonment and a fine of Rs.10 lakhs, in default, to undergo one year simple imprisonment.
420 IPC	five years of rigorous imprisonment and a fine of Rs.60 lakhs, in default, to undergo one year simple imprisonment.
13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988	five years of rigorous imprisonment and a fine of Rs.10 lakhs, in default, to undergo one year simple imprisonment.
The Sentences shall run concurrently.	

The conviction and sentence imposed against the second petitioner/A2 is as follows:-



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<i>Under Section</i>	<i>Sentence</i>
120B(1) r/w 420 r/w 109 IPC and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 r/w 109 IPC	five years of rigorous imprisonment and a fine of Rs.10 lakhs, in default, to undergo one year simple imprisonment.
420 r/w 109 IPC	five years of rigorous imprisonment and a fine of Rs.40 lakhs, in default, to undergo one year simple imprisonment.
13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 r/w 109 IPC	five years of rigorous imprisonment and a fine of Rs.10 lakhs, in default, to undergo one year simple imprisonment.
The Sentences shall run concurrently.	

3. The case of the prosecution is that on 14.03.2017, a case in RC 7/A/2017 was registered by then SP, ACB, CBI, Chennai against one Anil Kumar Meena/A1, Track Maintainer, Permanent Way Inspector's Office, Ambur, Southern Railway, one Suman Meena/A2, wife of Anil Kumar Meena and unknown others for the offence under Sections 120B(1) r/w 420 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988, based on the source information received at the office to the effect that A1, while working as Track Maintainer at the office of Permanent Way Inspector's Office, Ambur, Southern Railway during the period from 2015 to 2017 had diverted the salaries of the employees of the Southern Railway who were long absentees or resigned from the services, to his accounts as well as to A2's



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accounts maintained at various banks. Further, the amounts so credited were subsequently withdrawn and utilised by A1 and A2 and thereby, misappropriated the funds of the Southern Railways. Hence the case.

4. Mr.R.Vivekananthan, learned counsel for the petitioners/appellants submitted that the allegation against the first petitioner/A1, who was a Track Maintainer, working in the office of the Senior Section Engineer, Permanent Way, Ambur, Southern Railway and the second petitioner/A2, wife of A1 is that, during the period from January 2015 to January 2017, A1 by acquiring the confidence of PW21, Dakshinamurthy, Office Superintendent, had made him to share the password of the computer and the Prime Module Software and fraudulently and dishonestly got access to the data of 52 employees (Track Maintainers) of Southern Railway, who were either long absent or the terminated staff and changed their Bank Account Numbers into 23 Bank Account numbers of himself and his wife (A2) and fraudulently claimed and withdrawn Children Education Allowances and diverted the Salary and Allowances. He further submitted that the fact remains that A1 is only a Track Maintainer and he had no access to the administrative side of the railways and that the details of A1



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and A2 were misused by the Administrative officers and PW21, who was having the password, whereas, the petitioners have been made as scape goats.

5. The learned counsel for the petitioners/appellants submitted that though the petitioners have got a good case on appeal, without prejudice to their right of appeal, there is a likelihood that the petitioners may also go for plea bargaining. As per the prosecution, the total amount alleged to be have been cheated runs to Rs.1,00,89,749/- and during investigation, both the petitioners were granted anticipatory bail in Crl.O.P.No.3397 of 2017 on condition to deposit Rs.50 lakhs and the petitioners have also deposited the same and it is now in the custody of learned Judicial Magistrate II, Tirupathur. He further submitted that now, the petitioners, in order to show their bonafides, are ready to deposit the entire balance amount of Rs.50,89,749/- to the credit of the case before the trial Court. He further submitted that from the date of conviction on 27.02.2024, the petitioners are confined in Central Prison, Puzhal. Hence, he prayed that the sentence imposed on the petitioners/appellants may be suspended and they may be enlarged on bail.



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6. The respondent has filed a detailed counter and the counter is taken on record.

7. Learned Special Public Prosecutor for CBI appearing for the respondent submitted that the first petitioner, who was a public servant working as a Track Maintainer in the office of the Senior Section Engineer, Southern Railway, Ambur, had got the confidence of PW21, Dakshinamurthy, Office Superintendent, made him to share the password of the computer and the Prime Module Software and by fraudulent and dishonest intention got access to the data of 52 employees (Track Maintainers) of Southern Railway who were long absentees, prepared paybills, claimed and withdrawn Children Education Allowances and diverted their Salary and allowances into 23 Bank Account numbers of himself and his wife (A2). Thereby, caused loss to the Southern Railways to the tune of Rs.1,00,89,749/-. He further submitted that the prosecution, by producing the evidences of the Railway staff and Bank Managers and the absentee and terminated staff, has proved the case beyond reasonable doubts.

The trial Court, rightly finding that the charges against the



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petitioners/appellants have been proved, convicted them as stated above.

Therefore, he vehemently opposed for grant of suspension of sentence.

8. Heard the learned counsel for the petitioners/appellants and Special Public Prosecutor for CBI appearing for the respondent and perused the materials on record.

9. It is the case of the petitioners that they have a good case on merits and the appeal is not likely to be taken up for final hearing in the near future. Further, there is a likelihood of the petitioners seeking plea bargaining. It is also stated that in view of the condition imposed in the anticipatory bail petition in Crl.O.P.No.3397 of 2017, the petitioners have already deposited an amount of Rs.50 lakhs before the learned Judicial Magistrate No.II, Tirupathur and now, the petitioners are also ready to deposit the entire balance amount of Rs.50,89,749/- before the trial Court.

10. Taking into consideration the facts and circumstances of the case and taking note of the fact that the petitioners/appellants had already deposited a sum of Rs.50,00,000/- before learned Judicial Magistrate No.II,



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Tirupathur and also considering the undertaking given by the petitioners/appellants that they are ready to deposit a sum of Rs.50,89,749/- at the time of furnishing sureties before the trial Court, this Court is inclined to suspend the sentence of imprisonment on certain conditions. Accordingly, till the disposal of the Criminal Appeal, suspension of sentence and bail are granted, on the following conditions :-

(a) The petitioners shall execute separate 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 XIV Additional Special Judge for CBI Cases, Chennai;

(b) The petitioners/appellants, as per the undertaking, at the time of furnishing sureties, shall jointly deposit a sum of Rs.50,89,749/- (Rupees Fifty lakhs eighty nine thousand seven hundred and forty nine only) by way of the Demand Draft drawn in favour of the learned XIV Additional Special Judge for CBI Cases, Chennai to the credit of C.C.No.39 of 2017 and on such deposit being made, the trial Judge shall redeposit the said amount in Indian Bank, High Court Branch, Chennai in any of the interest bearing deposit scheme;



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(c) the learned Judicial Magistrate No.II, Tirupathur, shall also deposit an amount of Rs.50 lakhs (Rupees Fifty lakhs only), which was credited by the petitioners in Crime No.1 of 2017 in pursuance to the order passed in Crl.O.P.No.3397 of 2017, in Indian Bank, High Court Branch, Chennai, in any of the interest bearing deposit scheme;

(d) the petitioners/appellants shall appear before the trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

11. Accordingly, the Criminal Miscellaneous Petition stands ordered.

18.03.2024

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To

1. The XIV Additional Special Judge for CBI Cases, Chennai.
2. The Judicial Magistrate No.II, Tirupathur.
3. The Sub-Inspector of Police,
SPE : CBI : ACB, Chennai.
4. The Special Public Prosecutor for CBI,
High Court of Madras.
5. The Superintendent, Central Prison, Puzhal.
6. The Superintendent, Central Prison for Women, Puzhal.



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A.D.JAGADISH CHANDIRA, J.

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