



CRL MP(MD) No.3339 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Tuesday, the Nineteenth day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

Crl.M.P.(MD) No.3339 of 2024

in

Crl.A.(MD) No.237 of 2024

M.DEVARAJ

... PETITIONER/ APPELLANT

Vs

THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION UNIT,
NAGERCOIL,
KANYAKUMARI DISTRICT.
CRIME NO.13/2012.

... 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 enlarge the Petitioner on bail by Suspending the Sentence imposed upon him in Special SC No.02/2013 on the file of the Learned Special Judge Chief Judicial Magistrate, Kanyakumari District at Nagercoil, by Judgment dt.26.02.2024 and enlarge petitioner on bail pending disposal of the main Criminal Appeal.



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Prayer in Crl.A.(MD) No.237 of 2024:

To call for the records in Special S.C.No.02 of 2013 on the file of the Learned Special Judge Chief Judicial Magistrate, Kanyakumari District at Nagercoil, and set aside the Judgment dated 26.02.2024 and Acquit the Accused/Appellant of the Charges.

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.P.SUJAI KRISHANA, Advocate for the petitioner and of MR.M.MUTHUMANIKKAM, Government Advocate(Crl.side) on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the learned Special Judge-cum-Chief Judicial Magistrate, Kanyakumari District at Nagercoil, in Spl.S.C.No.2 of 2013, dated 26.02.2024, till the disposal of this Criminal Appeal.

2. According to the prosecution, while the accused/petitioner was serving as Sub-Registrar at Kottaram, he alleged to be demanded a sum of Rs.2,000/- as illegal gratification from P.W.2/Ponnam Perumal, for issuing Encumbrance Certificate qua land in Survey No.5056. Since P.W.2 was not interested in paying the illegal gratification, he lodged the complaint before the respondent and thereby, a trap was laid and the petitioner/accused was caught red-handed. Thereafter, the respondent police registered FIR against the petitioner/accused in Crime No.13 of 2012 on the file



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of the respondent police for the offence punishable under Sections 7 and 13(2) r/w. 13(1)(d) of the Prevention of Corruption Act, 1988 and the same was taken on file in Spl.S.C.No.2 of 2013 on the file of the learned Special Judge-cum-Chief Judicial Magistrate, Kanyakumari District at Nagercoil. The petitioner was found guilty for the offence punishable under Sections 7 and 13(2) r/w. 13(1)(d) of the Prevention of Corruption Act, 1988. The petitioner was convicted and sentenced for the offence punishable under Section 7 of Prevention of Corruption Act, to undergo 3 years Rigorous Imprisonment and to pay a fine of Rs.2,000/- with 2 months simple imprisonment in case of default. He was convicted and sentenced to undergo 2 years Rigorous Imprisonment and to pay a fine of Rs.2,000/- with 2 months simple imprisonment in case of default for the offences punishable under Section 13(2) r/w. 13(1) (d) of the Prevention of Corruption Act. The trial Court ordered the sentences to run concurrently. Challenging the above said conviction and sentence, the petitioner/accused has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

3. The learned counsel appearing for the petitioner submits that the sanction order has been issued mechanically without scrutinizing the materials. As regards the initial demand, the prosecution evidence clinches upon the testimony of P.W.2 alone



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and the Court below relied on the entire testimony of P.W.2 as it is without appreciating the contradictions and improvements. The Court below failed to consider the fact that the alleged amount of Rs.2,000/- was received as search fee for issuing Encumbrance Certificate. He submitted that if the petitioner is released on bail, he is ready to abide any conditions imposed by this Court and thereby, he prayed for bail.

4. Learned Additional Public Prosecutor appearing for the respondent submitted that the trial Court has already suspended the sentence of the petitioner for a period of one month by its order dated 25.03.2024 in Cr.M.P.No.1984 of 2024..

5. Heard the learned counsel on either side and perused the materials available on record.

6. Considering the arguable points involved in the appeal and the facts and circumstance of the case, this Court is of the prima facie view that the sentence imposed on the petitioner is to be suspended pending this appeal.

7. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence



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imposed by the learned Special Judge-cum-Chief Judicial Magistrate, Kanyakumari District at Nagercoil, in Spl.S.C.No.2 of 2013, dated 26.02.2024 alone is suspended subject to the following conditions:

i) 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, 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 their Aadhar card or Bank Pass Book to ensure their identity;

iii) The petitioner shall appear and sign before the learned Special Judge-cum-Chief Judicial Magistrate, Kanyakumari District at Nagercoil, on the first working day of every English calendar month at 10.30 a.m., until further orders.;

iv) The petitioner shall furnish his residential address and mobile



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number to the Trial Court i.e., learned Special Judge-cum-Chief Judicial
Magistrate, Kanyakumari District at Nagercoil.

8. Subject to the above conditions, this Petition is allowed.

sd/-
19/03/2024

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/03/2024
Sub-Assistant Registrar (CS -I/ II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

pkn

TO

1.THE SPECIAL JUDGE-CUM-CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL,

2.THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION UNIT,
NAGERCOIL,
KANYAKUMARI DISTRICT.

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

+1 CC to M/s.P.SUJAI KRISHNA, Advocate (SR-3365[I] dated 19/03/2024)



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ORDER

IN

CrI.M.P.(MD) No.3339 of 2024

in

CrI.A.(MD) No.237 of 2024

Date :19/03/2024

RK/JGB (22/03/2024) 7P / 5C

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