Crl.MP(MD)No.10954 of 2024 in Crl.A(MD)No.832 of 2024

G.ILANGOVAN, J

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the Special Judge-cum-Chief Judicial Magistrate, Virudhunagar District @ Srivilliputhur in Special CC No.29 of 2014, dated 10/10/2024 and enlarge the petitioner/A1 on bail, pending disposal of the above said Criminal Appeal.

2.The case of the prosecution is that the petitioner herein A1 was working as Branch Manager in TAICO Bank, Sivakasi Branch between 07/01/2003 and 14/11/2003. He along with the co-accused entered into criminal conspiracy and granted Rs.3,00,000/- as personal loan to bogus persons by creating false and bogus records. In pursuance of the above said conspiracy, A2 forged the signature of one Rajendran, Pay Drawing Officer in the loan application form and forged the pay certificates of one Mariappan and Palsamy and others. A2 to A4 submitted the applications to A1, who is the petitioner herein for granting loan. A1, in pursuance of the above said conspiracy, without verification of the records, opened new savings accounts and thereby, caused Rs.3,00,000/- loss to the Bank and thereby A1 to A4 committed the offences under sections 120B, 467, 468, 471, 420, 409 r/w 109 IPC and 13(2) r/w

13(1)(c) and (d) of IPC. Act 1988. Upon the occurrence, a case in Crime No.2 of 2008 was registered by the respondent police for the offences stated above.

3.After completion of the investigation, the respondent police filed a final report and the same has been taken cognizance in Special CC No.29 of 2014 of 2024 by the Special Judge-cum-Chief Judicial Magistrate, Virudhungar District @ Srivilliputhur.

4.On the side of the prosecution, 18 witnesses were examined and 49 documents were marked. On the side of the accused, no oral and documentary evidence was adduced.

5.At the conclusion of the trial process, the trial court found the petitioner guilty of the offences and sentenced him to undergo 3 years RI and to pay a fine of Rs.5,000/-, in default, to undergo 6 months SI for the offences under sections **120B, 467, 468 and 471 IPC** respectively and; also sentenced him to undergo 5 years RI and to pay a fine of Rs.5,000/-, in default to undergo 6 months SI for the offences under sections **420, 409 IPC and section 13(2) r/w 13(1)(c) and (d) of Prevention of Corruption Act 1988** respectively and directed to run the sentences concurrently.

6.Challenging the conviction and sentence, this appeal is preferred by the appellant/A1. Pending appeal, this criminal miscellaneous petition was taken out by the petitioner/A1 seeking suspension of sentence.

7.Heard both sides.

8.The learned counsel appearing for the petitioner would submit that as per the case of the prosecution, this petitioner/A1 was not involved in the criminal misappropriation of money and forgery; The allegation, that was made against the petitioner is that without properly verification of the records, he allowed the co-accused to open savings accounts and distributed the loan amount without properly verifying the records of pay certificates and other documents with the concerned authorities. So, according to him, no pecuniary advantage was drawn by the petitioner even as per the prosecution of the case. Apart from that, it is submitted that PW13 himself admits the limited role alleged to have been played by the petitioner. Now, the petitioner is aged about 73 years and suffering from cancer disease and seeks suspension of sentence.

9.Per contra, the learned Additional Public Prosecutor would submit that in pursuance of the criminal conspiracy, the petitioner only with the criminal intention failed to verify the documents submitted by the co-accused and sanctioned the loan even without referring to the concerned authorities. So, according to him, criminal intention on the part of the petitioner was established before the trial court without any doubt. So, no interference is called for.

10.Perusal of the records and reading of the evidence of PW13 shows the limited role alleged to have been played by the petitioner. Whether he sanctioned loan with criminal intention to cheat the Bank is a matter for consideration at the time of appeal. As contended by the petitioner, it is not the case of the prosecution that by that, illegal process, the petitioner gained pecuniary advantage.

11.Considering the age, illness of the petitioner, the limited role alleged against the petitioner and also considering the fact 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, this criminal miscellaneous petition is allowed and the substantive sentence of imprisonment alone is suspended and the petitioner/A1 is directed to be enlarged on bail on condition that he 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 Special Judge-cum-Chief Judicial Magistrate, Virudhunagar Ditrict @ Srivilliputhur and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.30 am until further orders.

24/10/2024

Index : Yes/No
Internet: Yes/No
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To,

1. The Special Judge-cum-Chief Judicial Magistrate,
   Virudhunagar District @ Srivilliputhur.

2. The Inspector of Police,
   Vigilance and Anti-Corruption,
   Virudhunagar.

3. The Additional Public Prosecutor,
   Madurai Bench of Madras High Court,
   Madurai.

4. The Superintendent,
   Central Prison,
   Madurai.

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