



CRL MP(MD) No.13036 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Monday, the Second day of December Two Thousand and Twenty Four

PRESENT

The HONOURABLE MR. JUSTICE K.K.RAMAKRISHNAN

CRL MP(MD) No.13036 of 2024

IN

CRL A(MD) No.1052 of 2024

R. SUBBURAJ

... PETITIONER/ APPELLANT
/ ACCUSED NO.4

Vs

THE DEPUTY SUPERINTENDENT OF POLICE,
PREVENTION OF VIGILANCE AND ANTI CORRUPTION WING,
THANJAVUR.

CRIME NO. 12/2005

... 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 and conviction made in the judgment in Spl Case No. 57/2014 on the file of the learned Special Judge for Trial of Prevention of Corruption act cases (Chief Judicial Magistrate), Thanjavur district at Kumbakonam dated 05.11.2024 and enlarge the petitioner on bail pending disposal of the instant Criminal Appeal.

Prayer in CRL A(MD) No.1052 of 2024 :

To call for the records in Spl. Case No.57 of 2014 dated 05/11/2024 on the file of the Special Judge for Trial of Prevention of Corruption Act Cases (Chief Judicial Magistrate), Thanjavur District at Kumbakonam and set aside the same.



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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.N.ANANDA KUMAR, Advocate for the petitioner and of MR.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence and fine passed by learned Special Judge for Trial of Prevention of Corruption Act Cases (Chief Judicial Magistrate), Thanjavur District at Kumbakonam, in Spl.C.No.57 of 2014 dated 05.11.2024 to enlarge the petitioner on bail till the disposal of the Criminal Appeal.

2. The case of the prosecution is that the petitioner is the accused No.4 in Spl.C.No.57 of 2014. The petitioner in the said Spl.C is facing charges under Sections 120(B) r/w 409 of IPC and 13(2) r/w 13(1)(c) of Prevention of Corruption Act. As per the allegation, during the period 1996 - 2000, the petitioner and the other accused were working at Fishing Harbor Project Division, Thanjavur, in various posts. All are colluded together, purchased the cement and steel more than the required quantity without following the government orders and also the departmental circulars for construction of free houses for the Tamil Nadu Fisher Men in the Fishing Harbor Project Division, Thanjavur and caused loss to the Government to the tune of Rs.4,42,45,783/-. The petitioner herein also misappropriated a sum of Rs.2,74,856/-.

3. On receipt of the complaint, the respondent police registered a case in Crime



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No.12 of 2005 for the offences under Sections 120(B) r/w 409 of IPC and 13(2) r/w 13(1)(c) of Prevention of Corruption Act.

4. The respondent police, after completing the investigation, has laid a final report for the offences 120(B) r/w 409 of IPC and 13(2) r/w 13(1)(c) of Prevention of Corruption Act, before the learned Special Judge for Trial of Prevention of Corruption Act Cases (Chief Judicial Magistrate), Thanjavur District at Kumbakonam. The learned Special Judge has taken the case on file in Spl.C.No.57 of 2014 and thereafter, conducted trial as per procedure stated in code of Criminal Procedure.

5. During the trial, the prosecution has examined 22 witnesses as P.W.1 to P.W.22 and exhibited 547 documents as Ex.P.1 to Ex.P.547 and no Material Objects were marked and on the side of the defence, he also examined himself as D.W.1 and Ex.D.1 to Ex.D3 were marked.

6. The learned Special Sessions Judge, upon considering the evidences adduced and on hearing the arguments on both the sides, acquitted the petitioner from the offence under Section 120(B) r/w 409 of IPC and convicted him for the offence under Sections 13(2) r/w 13(1)(c) of Prevention of Corruption Act, and sentenced him to undergo 3 years Rigorous Imprisonment and to pay a fine of Rs.10,000/- in default, to undergo 2 months simple Imprisonment for the offence under Section 13(2) r/w 13(1)(c) of Prevention of Corruption Act.



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7. Thereafter, the trial Court has granted interim suspension of sentence to the petitioners on 04.11.2024 for a period of 30 days from 05.11.2024 to 04.12.2024.

8. 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.

9. The learned Counsel for the petitioner submitted that now the petitioner is aged about 70 years and he has not committed any offence as alleged by the prosecution. He further submitted that P.W.4 has not specified the alleged loss caused by the petitioner and P.W.5, in his cross examination admitted that had the annual certificate of balance been verified, it would have revealed how many cement bags were given, how many cement bags were used, and the balance of cement bags. He would further submit that a number of contradictions between the evidences regarding the alleged occurrence. Hence, he seeks to grant of suspension of sentence to the petitioner.

10. 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 strongly opposed to grant suspension of sentence.

11. This Court has carefully considered the rival submissions by either side and also perused the materials available on record.



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12. Considering the facts and circumstances of the case and also considering the fact that the petitioner is aged about 70 years and the trial Judge has already granted interim suspension of sentence to the petitioner, and certain infirmities, inconsistencies and contradictions in material particulars brought to the knowledge of this Court, this Court prima facie feels 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. Hence, this Court is inclined to grant of suspension of sentence.

13. Accordingly, the relief of suspension of sentence is granted to the petitioner on 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 for Trial of Prevention of Corruption Act Cases (Chief Judicial Magistrate), Thanjavur District at Kumbakonam.

(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

(iii) The petitioner shall appear before the concerned Court once in a



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month i.e., on first working day of every English calendar month at 10.30
a.m., till the disposal of the appeal.

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sd/-
02/12/2024

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/12/2024

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

TO

- 1 THE SPECIAL JUDGE FOR TRIAL OF PREVENTION OF CORRUPTION ACT
CASES (CHIEF JUDICIAL MAGISTRATE),
THANJAVUR DISTRICT AT KUMBAKONAM.
- 2 THE DEPUTY SUPERINTENDENT OF POLICE,
PREVENTION OF VIGILANCE AND ANTI CORRUPTION WING,
THANJAVUR.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.N.ANANDAKUMAR, Advocate (SR-14883[I] dated 03/12/2024)

ORDER IN
CRL MP(MD) No.13036 of 2024
IN CRL A(MD) No.1052 of 2024
Date :02/12/2024

RS/VR/SAR-(05.12.2024) 6P 5C
Madurai Bench of Madras High Court is issuing
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