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Crl.M.P.No.3131 of 2025
in Crl.A.No.200 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2025

CORAM

THE HONOURABLE **MR.JUSTICE M. NIRMAL KUMAR**

Crl.M.P.No.3131 of 2025

in

Crl.A.No.200 of 2025

D.Jayakumar,
Special Sub-Inspector,
H-1, Washermenpet Police Station,
Crime, Washermenpet District,
Chennai City Police, Chennai.

... Petitioner /Accused

Vs.

The State
Rep by the Inspector of Police,
Vigilance and Anti-Corruption,
City Special Unit-I, Chennai – 600 028.
F.I.R. in Cr.No.02/AC/2011/CC-1.

... Respondent

PRAYER: Criminal Miscellaneous Petition has been filed under Section 430(1) of BNSS praying to suspend the sentence passed against the petitioner by the trial Court, i.e., the Special Court for the Cases under Prevention of Corruption Act, Chennai -104 in its impugned judgment dated 03.02.2025 passed in C.C.No.29 of 2013 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.Arun Anbumani

For Respondent : Mr.S.Udaya Kumar
Government Advocate (Crl. Side)



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ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the judgment dated 03.02.2025 passed in C.C.No.29 of 2013 by the learned Special Judge, Special Court for the cases under Prevention of Corruption Act at Chennai, pending disposal of the above criminal appeal.

2. The petitioner/Accused in C.C.No.29 of 2013 was convicted by the Trial Court by the judgment dated 03.02.2025 for the offences under Sections 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, and sentenced to undergo 4 years rigorous imprisonment and to pay a fine of Rs.50,000/-, in default, to undergo three months simple imprisonment, for the offence under Section 7 of Prevention of Corruption Act and sentenced to undergo 5 years rigorous imprisonment and to pay a fine of Rs.50,000/-, in default, to undergo six months simple imprisonment, for the offence under Sections 13(2) r/w 13(1)(d) of Prevention of Corruption Act. The sentences are directed to run concurrently. Aggrieved by the said conviction, the petitioner filed Crl.A.No.200 of 2025 before this Court along with the instant miscellaneous



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petition seeking suspension of sentence and bail.

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3. During trial, on the side of the prosecution, PW1 to PW12 examined and Exs.1 to 21 marked and material objects M.O.1 to M.O.6 produced. On the side of the defence, DW1 & DW2 examined and Exs.D1 to D6 marked. On conclusion of the trial, the Trial Court on the evidence of witnesses and the materials produced, convicted the petitioner as stated above.

4. The case of the prosecution is that PW2/de-facto complainant was working as Conservancy Worker at Chennai Corporation. He borrowed a hand loan of Rs.10,000/- from one Selvam in the year 2007 and he repaid a sum of Rs.18,000/- as interest till December, 2008. Thereafter, he was unable to repay the amount. On 28.08.2010, when the de-facto complainant returned from work, his wife informed that the petitioner/SSI of H1 Police Station came in search of him and gave his phone number. The next day, the de-facto complainant met the petitioner in the police station and he insisted the de-facto complainant to pay a sum of Rs.10,000/- otherwise he would be arrested. The de-facto complainant repaid Rs.10,000/- during October, 2010. At the time of obtaining loan, he handed over 5 blank cheques and one blank Twenty Rupees stamp paper to Selvam. On 25.01.2011, the petitioner called the de-



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facto complainant through phone and demanded Rs.1,500/- as bribe to return the blank cheques and signed stamp paper. De-facto complainant not willing to pay the bribe amount, lodged complaint with Vigilance police and thereafter, trap proceedings laid.

5.The contention of the learned counsel for petitioner is that the petitioner is a Special Sub-Inspector of Police, Washermenpet Police Station, who was at the verge of his retirement and at that time a trap has been projected against him using PW2 as a tool by one Velan Subramanian, Inspector of Police, Vigilance and Anti-corruption. The said DVAC Inspector and the de-facto complainant/decoy were in regular contact in Mobile No.9445048911, which belongs to a CUG number of Vigilance and Anti-Corruption group. To prove this fact, the petitioner marked Ex.D2. Further the corresponding call details of de-facto complainant's No.9150931727 and the CUG group number of Vigilance and Anti-corruption is confirmed by Ex.P8, which is not disputed. The complaint is said to have lodged on 04.02.2011 and thereafter, the de-facto complainant is said to have called the petitioner on four occasions. Even 10 days prior to the trap, there were regular contacts between the de-facto complainant and the Inspector of Vigilance and Anti-



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corruption, which would clearly show that it is a motivated complaint and a case was foisted against the petitioner. The petitioner being a Special Sub Inspector of Police had dealt with the complaint of one Selvam, to whom the de-facto complaint owed an amount of Rs.18,000/- and it was projected that the entire amount was paid back and the petitioner obtained a signed blank Twenty Rupees stamp paper and 5 signed blank cheques from the de-facto complainant. The petitioner demanded Rs.1,500/- as bribe amount to hand over the blank cheques and signed stamp paper. After the arrest of the petitioner, a search was made in the petitioner's office as well in his residence but no such blank cheques and blank stamp paper recovered. It would only fortify the contention of the petitioner that the petitioner falsely implicated with motive.

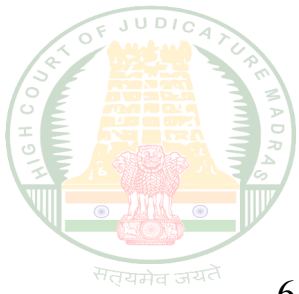
5.1.He further submitted that on the date of trap, PW2 accompanied with PW3. But PW3 in his evidence state that he was unable to hear the demand and conversation between PW2 and the petitioner, when the amount was handed over near a traffic signal and there was a huge noise of vehicles. The contention of petitioner is that Rs.1,500/- was the amount to be given to Selvam. Further in this case, PW6, the Nodal officer, BSNL examined and



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through him Ex.P8/ call details marked. The petitioner cross examined PW6 with regard to call details and confirmed regular contact by de-facto complainant and V & AC mobile number and following calls with the petitioner. This being so, in the judgment of trial Court at paragraph 29, it is recorded that Ex.P8 has been marked without 65(B) certificate and it was objected by the petitioner, hence, in the absence of the same Ex.P8 cannot be considered, which is on a wrong assumption. Neither the prosecution nor the petitioner objected while marking Ex.P8. In fact, the petitioner cross examined PW6 confronting with Ex.P8. Since the document has become difficult for the trial Court to get over, such an observation has been made on its own, which is not proper. He further submitted that in this case discarding Exs.D1 and D2 is also without proper reasons. He further submitted in this case Selvam, who was a listed witness passed away during trial and petitioner unable to produce direct evidence to show the transaction between de-facto complainant and Selvam. Hence, he has to probabalise by circumstance which he had done so, but the trial Court failed to consider the same. Hence, prayed for granting suspension of sentence.



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6.The learned Government Advocate (Crl. Side) appearing for the respondent Police submitted that PW2, the decoy witness clearly deposed about the demand made by the petitioner for handing over Ex.P2 to PW2. He further submitted that on 04.02.2011 when the defacto complainant met the petitioner with PW2, the accompany witness, the petitioner demanded money and accepted the same. Thus, the demand, acceptance and recovery of the bribe amount proved by the evidence of PW2 and PW3. He further submitted that from the evidence of PW2, PW4 and PW5, it is clear that one Selvam lodged a complaint against PW2 and the petitioner had enquired the complaint (Ex.P6). During enquiry, PW2 agreed to give balance amount in three instalments. In course of the same, the petitioner demanded a sum of Rs.1,500/- on 26.01.2011 for handing over Ex.P2 to PW2. After completing the loan dues, the petitioner made the demand for bribe amount. The recovery of tainted money from the petitioner had been proved from the evidence of PW3, PW10 and PW11. Thus, in this case, the demand, acceptance and recovery rightly proved beyond all reasonable doubt on the evidence of PW2, PW3, PW4, PW5, PW10 and PW11. The Trial Court considered all the aspects and discussed the evidence of the witnesses in detail and rightly convicted the petitioner. During trial, on the side of the prosecution, 12



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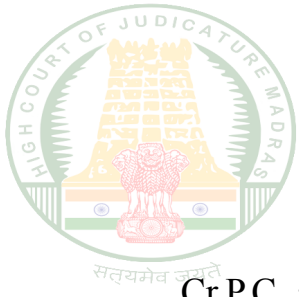
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witnesses examined as PW1 to PW12, 21 documents marked as Exs.P1 to P21 and MO1 to MO6 produced. On the side of the defence, the petitioner examined DW1 and DW2 and marked Exs.D1 to D6.

7.Finding prima-facie case is made out and further taking note of the fact that there are arguable points involved in this appeal and it would take some time for the appeal to be taken up for final hearing, this Court is inclined to suspend the sentence imposed on the petitioner.

8.Accordingly, the substantive sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the appeal and he is ordered to be enlarged on bail, on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties, each for a like sum to the satisfaction of the trial Court.

9.Further, the petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the criminal appeal and if he is not able to appear before the Trial Court on that day, he shall make arrangements to file an application under Section 317



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Cr.P.C. and shall appear before the Trial Court on any other day in lieu of the date of his absence as directed by the Trial Court.

10. Accordingly, this Criminal Miscellaneous Petition is ordered.

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M. NIRMAL KUMAR, J.

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To

- 1.The Special Judge,
Special Court for the cases under Prevention of Corruption Act,
Chennai.
- 2.Inspector of Police,
Vigilance and Anti-Corruption,
City Special Unit-I, Chennai – 600 028.
- 3.The Superintendent,
Central Prison, Puzhal,
Chennai.
- 4.The Public Prosecutor,
High Court, Madras.

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