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Crl.M.P.No.3784 of 2025 in Crl.A.No.233 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.03.2025

CORAM

THE HONOURABLE MR.JUSTICE M. NIRMAL KUMAR

Crl.M.P.No.3784 of 2025
in Crl.A.No.233 of 2025

S.Muthukrishnan, 60 years,
S/o. Subramaniam,
Former Assistant Engineer,
TANGEDCO,
Udumalpet,
Tiruppur District.

... Petitioner

/versus/

The State By,
The Inspector Of Police,
Vigilance And Anti Corruption,
Tiruppur.
04/2013/AC/TPR

... Respondent

PRAYER: Criminal Miscellaneous Petition has been filed under Sections 389(1) of Cr.P.C and 430 (1) of BNSS, praying to suspend the sentence imposed in Spl.C.C.No.02 of 2015 dated 05.02.2025 passed by the Chief Judicial Magistrate, Tiruppur and enlarge the petitioner on bail pending disposal of this Criminal Appeal.

For Petitioner : Mr.R.Prabakar
For Respondent : Mr.S.Udaya Kumar,
Govt.Adovcate (Crl.Side)

ORDER



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The petitioner accused, was convicted by the trial Court in Spl.C.C.No.2 of 2015 by the judgment dated 05.02.2025 and sentenced him to undergo three years R.I and to pay fine of Rs.2,000/-, in default to undergo S.I for 1 month for the offence under Section 7 of P.C Act and sentenced to undergo three years R.I and to pay fine of Rs.2000/-, in default to undergo S.I for one month for the offence under Section 13(2) r/w 13(1)(d) of P.C Act against which he had filed the present appeal and suspension of sentence.

2. The contention of the petitioner is that the petitioner is an Assistant Engineer in TANGEDCO. The *defacto* complainant, P.W.2, applied for commercial service connection in the name of his wife, Smt. Kavitha (P.W.11), for a welding service and two lathe service connections. The petitioner is said to have demanded a bribe amount of Rs.10,000/- and a complaint lodged against the petitioner, and trap was laid on 03.07.2013 and projected the petitioner was caught red-handed accepting the bribe.

3. The case against the petitioner is that, on 24.06.2013, the petitioner made the first demand. This was followed up on 02.07.2013 and reiterated on 03.07.2013, the date on which the complaint was lodged and the



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trap was laid. On this day, P.W.2, the *defacto* complainant, allegedly handed over the bribe amount of Rs.8,500/- in the presence of P.W.3, the accompanying official witness. P.W.14, the Trap Laying Officer, is said to have made the recovery in the presence of the official witnesses and this was duly recorded. However, the foundational fact of this case is doubtful. The service connection was processed on the application of P.W.2. The fees were collected, the meter was sent for MRT sealing and after receiving the lab report and sealing, the meter was issued on 25.06.2013. On 27.06.2013, the indemnity bond executed and the service connection was effected on 28.06.2013. Therefore, there was no reason for the petitioner to have made any demand on 02.07.2013 or 03.07.2013. The service connection work already completed. Hence, the demand for bribe would not arise.

4. During the trial, the petitioner marked Ex.D.1 to confirm this aspect and P.W.6, the Foreman, confirmed that the service connection already effected, well before the date of alleged demand and trap. This fact was not properly considered by the trial court, but gave its own explanation that in Service Connection Register (Ex.D.1) page found missing and hence disbelieved the petitioner's contention. This document is from the EB Department and the petitioner had no access to it. If there is any discrepancy, it



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is for the prosecution to clarify the same. However, the trial Court giving such an explanation without providing an opportunity to the petitioner to refute, and giving such finding is not proper.

5. The Learned Government Advocate (Crl. Side) appearing for the respondent submitted that P.W.2, the *defacto* complainant, lodged the complaint and the case was registered by P.W.14. Initially, petitioner made a demand for Rs.10,000/- for welding and two lathe service connections in the name of P.W.11, the wife of P.W.2. After receiving the complaint, the Trap Laying Officer found the complaint to be true and enlisted the service of P.W.3 and P.W.4, the accompanying official witnesses. P.W.3 accompanied P.W.2, during demand of the bribe amount, P.W.4 accompanied the Trap Laying Officer P.W.14 in his presence tainted money recovered.

6. During the trial, 16 witnesses (P.W.1 to P.W.16) examined and 15 documents (Ex.P.1 to Ex.P.15) marked and M.O.1 to M.O.5 produced. On the side of defense, one exhibit marked as Ex.D.1. The petitioner's states that the service connection had already been effected on 28.06.2013 and the document Ex.D.1 in support of his contention is doubtful.

7. The Learned Government Advocate (Crl. Side) appearing for the



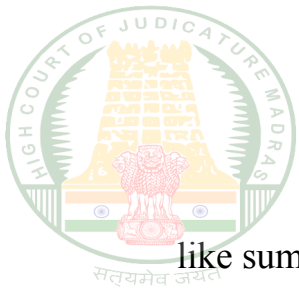
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respondent submitted that the petitioner's sentence suspended by the trial court in Crl.M.P.No.331 of 2025 on 05.02.2025, for a period of 30 days.

8. On consideration of the above submissions, it is seen that the petitioner has explained that there was no reason for making a demand for a service connection, already effected on 28.06.2013. The demand made by the petitioner is on 02.07.2013 and 03.07.2013 appears to be doubtful and the petitioner implication in the case likely. The bribe amount was forcibly entrusted and petitioner compelled to handle seems plausible, needs reconsideration.

9. Considering the submissions made and the fact that the petitioner raised arguable grounds in the above appeal, which requires consideration, this Court is inclined to grant the relief of suspension of sentence to the petitioner.

10. 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



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like sum to the satisfaction of the Chief Judicial Magistrate, Tiruppur.

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11. Further, the petitioner shall appear before the Trial Court once in three months at 10.30 a.m. on the first working day of the month, until the disposal of the 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 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.

12. Accordingly, this Criminal Miscellaneous Petition is ordered.

04.03.2025

Index : Yes/No.

Neutral Citation : Yes/No.

bsm

Note: Issue order copy today (06.03.2025)

To:-

1. The Chief Judicial Magistrate, Tiruppur.
2. The Inspector Of Police,
Vigilance And Anti Corruption,
Tiruppur.
3. The Public Prosecutor, High Court, Madras.



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M.NIRMAL KUMAR,J.

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