



CRL MP NO. 5511 OF 2025
in CRL A No. 292 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-03-2025

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THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL MP NO. 5511 OF 2025

in

CRL A No. 292 of 2025

Mohanasundaram
S/o.Ganesan, District Revenue Officer
(stamps), Chennai Collectorate,
Chennai.

Petitioner/A1

Vs

State Rep. By The
Inspector Of Police,
Vigilance And Anti-corruption,
City Special Unit-I,
Chennai - 600 028.

Respondent(s)

PRAYER: Criminal Miscellaneous Petition filed under Section 430(1) r/w 483 of BNSS, praying to suspend the sentence made in CC.NO.6 of 2015 dated 14.03.2025 on the file of the Special Court for the cases under the Prevention of Corruption Act, Chennai and enlarge the petitioner on bail pending Crl.A.No.292 of 2025 on the file of this Court.



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For Petitioner(s): Mr.K.P. Anantha Krishna

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

ORDER

The petitioner/A1 in C.C.No.6 of 2015 was convicted by the trial Court by the judgment dated 14.03.2025 for offences under Sections 7 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988 (hereinafter 'P.C. Act') and sentenced to undergo four 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 P.C. Act and to undergo five years rigorous imprisonment and to pay a fine of Rs.50,000/-, in default, to undergo six months simple imprisonment, for the offences under Sections 13(2) r/w 13 (1) (d) of P.C. Act, against which, the petitioner preferred the above appeal along with the instant miscellaneous petition seeking suspension of sentence and bail.



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2.The petitioner/A1 was working as District Revenue Officer (Stamps).

The primary contention of the petitioner is that in this case, the arguments on the side of the petitioner not heard. The trial Court in page 6 of the judgment dated 14.03.2025 recorded that M/s.K.P.Anantha Krishna, K.Jayavarthini, G.Karuna Devi, R.Kavin Malar, Advocates appeared on behalf of 1st accused. Further it is recorded that on hearing the arguments advanced by prosecution side and no arguments made by accused even after sufficient opportunity and on perusal of entire evidence and the documents relied by either side and on available materials, case records and having stood over for consideration and reserved the case for judgment on 04.03.2025. With regard to the admissibility, acceptability of Exs.P32 and 35, the accused raised an objection in Crl.M.P.No.13 of 2025, which was not considered by the trial Court. Aggrieved by the said order, the petitioner preferred a revision before this Court in Crl.R.C.No.350 of 2025. This Court, by the order dated 28.02.2025, directed the trial Court to hear the arguments, decide the



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relevancy, admissibility and acceptability of the documents and thereafter to pronounce the judgment. This has been recorded and judgment delivered.

But contrary to the same, in paragraph 20 of the order, it was recorded as 'Heard both sides', which denotes that arguments heard on the side of the prosecution as well as the accused. Likewise in paragraphs 39, 40, 42 and 43 it has been recorded that the learned defence counsel referred to exhibits and evidence of witnesses, which is contrary to the earlier recording made by the trial Court. The arguments of the petitioner not heard and the petitioner was denied of his fundamental right to defend himself and gross injustice caused. Hence, the petitioner is prejudiced by the finding of the trial Court.

3.The learned counsel further contended that PW2 is the decoy witness and PW3 is the accompanying witness. PW2 in his evidence, categorically stated that he went to the office of A1, thereafter waited for nearly 1 ½ months for appropriate orders to be passed by A1 with regard to the valuation of property. The other persons, who were present there, informed him that



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without paying a bribe amount Rs.80,000/- the document will not be processed. Thereafter, PW2 met A1, who stated that field inspection to be done and thereafter only the valuation of property could be fixed. PW2 thereafter decided to pay the amount of Rs.60,000/- but later he approached the Trap Laying Officer/PW18, who informed that he can lay a trap provided, PW2 lodges a complaint as instructed by him. PW2 agreed for the same and thereafter pre-trap and post trap proceedings recorded. This fact was admitted in his chief examination, which was further corroborated by the evidence of PW3/accompanying witness, who stated that there was no demand and A1 only asked him whether he brought the letter requesting for valuation of the property. Thereafter RBI challan was given, and PW2 was asked to remit the amount in RBI. PW2 and PW3 confirmed that they went to the seat of A2 and handed over the amount, thereafter the TLO entered the office, post trap proceedings recorded.



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4. In this case, admittedly, there is no demand, which is *sine quo non* for a trap case. In a trap case, demand, acceptance and recovery should be proved. In this case, there is no demand, hence the foundational fact becomes shaky. PW2 and PW3 confirmed there is no demand either by A1 or A2, TLO not confirmed whether there was demand, acceptance of bribe amount and the recovery of trap amount is by force. The trial Court failed to look into these aspects and not heard the arguments on the side of the defence. Further referring to the trial Court judgment, he submitted that trial Court ordered to lodge a complaint against PW2 under Section 340 of Cr.P.C. for the offence of perjury. On one stretch the trial Court on the evidence of PW2 and PW3 comes to a conclusion that there was demand and acceptance of bribe amount by the accused, on the other hand gives a finding PW2 not spoken the truth and ordered steps to be taken for perjury. Hence, the finding of the trial Court is contrary and not sustainable.



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5.The learned Government Advocate submitted that during trial, on the side of the prosecution, PW1 to PW19 examined and Exs.P1 to P31 marked and material objects M.O.1 to M.O.4 produced. On the side of the defence, DW1 and DW2 examined but no documents marked. On conclusion of the trial, the Trial Court on the evidence of witnesses and the materials produced, had rightly convicted the petitioner.

6.Considering the submissions made and the fact that the petitioner has raised substantial grounds in the above appeal, which needs reconsideration and appeal is not likely to be taken up in the near future, this Court is inclined to grant the relief of suspension of sentence to the petitioner.

7.Accordingly, the substantive sentence of Imprisonment imposed on the petitioner/A1 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



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Rs.10,000/- (Rupees Ten thousand only) with two sureties, each for a like sum to the satisfaction of the trial Court.

8.Further, the petitioner/A1 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.

9.Accordingly, this Criminal Miscellaneous Petition is ordered.

20.03.2025
(2/2)

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Note: Issue order copy on 21.03.2025.



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To

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



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M. NIRMAL KUMAR, J.
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(2/2)