



CRL MP NO. 6492 OF 2025

in

CRL A No. 334 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-04-2025

CORAM

THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL MP NO. 6492 OF 2025

in

CRL A No. 334 of 2025

1. ARUNACHALAM

S/o. Annamalai, Formerly Revenue

Divisional Officer, Musiri, Trichy

District.

2. LALITHA

W/o. Arunachalam, No.12/9,

Sekarvarma Nagar, Thiruthani.

Petitioners/A1 & A2

Vs

State Rep. by,

The Inspector of Police,

Vigilance And Anti Corruption,

Kanchipuram Detachment,

(Crime No.21/AC/07/KM)

Respondent(s)



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PRAYER: Criminal Miscellaneous Petition filed under Sections 430(1) & (3) of BNSS, praying to suspend the sentence made in Special Calendar Case No.11 of 2012 on the file of the Special Judge and Chief Judicial Magistrate, Tiruvallur dated 13.03.2025 and to grant bail to the appellants pending disposal of Appeal.

For Petitioners : Mr.D.Veerasekharan

For Respondent: Mr.S.Udaya Kumar

Government Advocate (Crl. Side)

ORDER

The petitioners/A1 and A2 in Spl.C.C.No.11 of 2012 were convicted by the trial Court by the judgment dated 13.03.2025. The first petitioner was convicted for offence under Sections 13(2) r/w. Section 13(1)(e) of the Prevention of Corruption Act and sentenced to undergo three years simple imprisonment and to pay a fine of Rs.35,00,000/-, in default, to undergo one year simple imprisonment. The second petitioner was convicted for offence under Sections 13(2) r/w. Section 13(1)(e) of the Prevention of Corruption Act r/w 109 of I.P.C. and sentenced to undergo three years simple imprisonment and to pay a fine of Rs.5,00,000/-, in default, to undergo one



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year simple imprisonment. The total fine amount is Rs.40,00,000/- and the time for payment of fine amount is 20 days from the date of judgment, against which, the petitioners preferred the above appeal along with the instant miscellaneous petition seeking suspension of sentence and bail.

2.The contention of the petitioners is that the first petitioner is a public servant and on source information, one Saravanan, Inspector of Police, Vigilance and Anti-Corruption, Kanchipuram registered a case, conducted search in the house of petitioners at Tiruttani and at the official quarters at Musiri. During house search certain of the inventories of articles had been taken and in the house at Musiri, a cash of Rs.1,75,750/- seized. Thereafter, on conclusion of investigation, charge sheet filed giving statements 1 to 6.

3.According to the prosecution, the first petitioner was found to be holding disproportionate assets to the tune of Rs.48,42,598.46 p, which they were unable to give any explanation.



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4.The contention of the learned counsel for petitioners is that in this case, the respondent-police not considered the explanation given by the first petitioner. Learned counsel submitted that though inventory said to be taken on 30.10.2007, on the date of house search, in the inventory of jewels recorded as Item No.48, the year of acquisition, its value and by whom it was acquired nothing recorded. But the trial Court observed that these gold jewels of 539 grams were acquired during the check period, i.e. from 01.01.1997 to 30.10.2007, which is not proper. The second petitioner hail from a wealthy family, her parents holding 28 acres of land and carrying on agricultural activities in their village and they also have Mango grove and other assets. The second petitioner receiving agricultural income. The prosecution failed to consider the second petitioner's independent income. Though the second petitioner arrayed as an accused, who is said to have abetted A1, no final opportunity notice given to her, which was admitted by the Investigating



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Officer but the trial Court glossed over the same and observes that the explanation has been given by the first petitioner and that will be sufficient, which is not proper.

4.1.The further contention of the learned counsel for petitioners is that the house property at Tiruttani initially valued by PW8 and PW9 on 09.04.2008 and they arrived at a value of Rs.3,39,000/- and Rs.12,97,000/-, respectively, and the valuation report marked as Ex.P17. Finding that the petitioners had no disproportionate assets, to boost the asset the respondent again conducted house valuation with PW25 and PW26 and obtained a report/Ex.P31, wherein the value for the same properties were inflated and boosted as Rs.9,06,075/- and Rs.14,70,025/-, respectively. For what reason the second valuation is required, there is no answer by the investigating officer and the trial Court not addressed as to why second valuation is required. Added to it, except for two properties, all other properties stand in



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the name of A2 and in the name of her children. A2 has got independent source of income through the agricultural lands, which was confirmed by Ex.D1 marked through PW28/VAO. From Ex.D1 it is seen that during the period from 1987 to 2011 i.e, well within the check period, A2 had an agricultural income of Rs.29,86,500/-. The trial Court failed to consider this fact and gives a reason that Ex.D1 marked through VAO, who is not the appropriate authority to issue a certificate, with regard to the agricultural income and negated the same. In this case, admittedly no one from the Horticulture Department examined with regard to the yield and income from Mango grove and with regard to the Chitta, Adangal, not proved in the manner known to law.

4.2. He further submitted that the trial Court without following Section 16 of the Prevention of Corruption Act without reasoning had imposed exorbitant fine, which is not sustainable. In this case, the prosecution failed to



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prove that the second petitioner had no income of her own, she only abetted A1 and holding the properties on behalf of A1 without any proof. Further submitted that the judgment of the trial Court is not sustainable in the eye of law, wherein the trial Court not given the statement of properties and for what reason the income of the petitioners not included. As per Tamil Nadu Government Servant's Conduct Rules, the properties acquired by the family members of the public servant on their own need not be declared unless specifically called for. Hence, the fine imposed is also not sustainable. He further submitted that the trial Court already suspended the sentence of the petitioners and for payment of fine, a period of 20 days granted, i.e., till 04.04.2025.

5.The learned Government Advocate (Crl. Side) on the other hand submitted that in this case preliminary enquiry earlier conducted and after collection of materials detailed enquiry conducted, F.I.R. registered by one



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Saravanan, who conducted investigation, on 30.10.2007. The house property at Tiruttani and the official residents at Musiri were searched. During the house search valuable articles found, inventories taken in the presence of the petitioners and their son-in-law. At that time the petitioner not given details with regard to the date of the acquisition of the properties. During investigation it was found that first petitioner was holding property in the name of second petitioner, for which, no explanation could be given. Thereafter final opportunity notice issued to A1 and A1 gave an explanation that his wife/second petitioner hails from wealthy family and the properties were purchased by his wife, which was not substantiated with any proof. In the official resident at Musiri, an amount of Rs.1,75,750/- seized, for which also no explanation could be given by the petitioners. Thereafter, listing out the properties before the check period, after the check period, likely income, expenditure and savings, finding that the petitioners were holding a property to the tune of Rs.68,85,758/-, i.e., about 318%, filed a final charge sheet. But



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in the charge sheet it was wrongly mentioned as Rs.48,42,598.46, which has been discussed by the trial Court in page 11 of its judgment. Hence, the petitioner holding disproportionate asset is proved.

5.1.He further submitted that in this case Saravanan, Investigating Officer, who registered F.I.R. and investigated the case, passed away during trial. Hence, PW30 deposed with regard to the investigation. The trial Court on the evidence of PW1 to PW30, Exs.P1 to P53 and M.O.1 and M.O.2 had rightly convicted the petitioner.

6.Considering the submissions made and on perusal of the material it is seen that in this case as per sanction order/Ex.P1, the case projected is that the petitioners were holding a property to the tune of Rs.68,85,758/- but the charge sheet filed for disproportionate assets to the tune of Rs.48,42,598.46. Though the trial Court records the same, it goes on to state that even if the lesser amount is taken as disproportionate assets then also the petitioners are



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unable to account for the assets, hence, the discrepancy is not fatal to the case, which is not proper. The trial Court ought to have framed charges for the disproportionate assets and thereafter to answer the same in the judgment.

In this case it was not done so. Further, in this case the petitioners' house at Tiruttani was initially valued by PW8 and PW9 on 09.04.2008 and they assessed the value of the property as Rs.3,39,000/- and Rs.12,97,000/-, respectively by Ex.P17. The same property was revalued by PW25 and PW26 on 09.03.2010 and the value of the property was shown as Rs.9,06,075/- and Rs.14,70,025/- by report/Ex.P31. How the value has been increased between first valuation and second valuation, there is no reason given. Hence, the valuation report is doubtful.

7.Likewise the jewels to the extent of 539 grams, which is said to have recorded in the inventory during house search on 30.10.2007, is doubtful. In the inventory, there is no reference with regard to the year of purchase, mode



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of purchase and the details of purchaser. Thereafter, how the value has been fixed and fixation of the period is not proper. Added to it, in this case PW2/SRO, Tiruttani confirms that the properties purchased in the name of A2 and her daughters through Exs.P3 to P11. A2 is the person with resources. Her family has got 28 acres of lands and she was receiving income from the agricultural properties, which was proved by Ex.D1 marked through PW28/VAO. Ex.D1 not seriously disputed. But the trial Court gives a finding that Ex.D1 was not issued by the competent person. On the other hand, it is seen that the yield and income in the Mango grove and paddy field has been taken from the evidence of PW27, who confirms that he deputed one Jayakumar, Deputy Tahsildar to conduct field inspection and give a report. The said Jayakumar not examined as witness. Further PW24 is the Thasildar, Sathiyavedu, who confirms that the second petitioner is owning Mango grove and he gave a report/Ex.P30. He admits that it is the Horticulture Department, who is the right person to give the income of yield from Mango grove.



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8. Thus, in this case it is seen that prosecution not considered the properties acquired by A2 on her own right. A2 is a resourceful person, which was proved by witnesses and Ex.D1 and the trial Court in the judgment not categorized the assets before the check period and properties purchased during the check period, income, savings, expenditure and the likely savings available with the petitioners to purchase the properties. Without considering these basic fundamental factors with the evidence, rendering of judgment is not proper and needs reconsideration. Further considering the fact that the trial Court already suspended the sentence of the petitioners till 04.04.2025, this Court is inclined to grant the relief of suspension of sentence to the petitioners.

9. The payment of fine amount is stayed, which is not as per Section 16 of the Prevention of Corruption Act and the substantive sentence of Imprisonment imposed on the petitioners is suspended till the disposal of the



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appeal and they are ordered to be enlarged on bail, on condition that they shall execute a separate 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.

10.Further, the petitioners 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 they are not able to appear before the Trial Court on that day, they 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 their absence as directed by the Trial Court.

11.Accordingly, this Criminal Miscellaneous Petition is ordered.

02.04.2025

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M. NIRMAL KUMAR, J.
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To

- 1.The Special Judge/Chief Judicial Magistrate,
Tiruvallur.
- 2.The Inspector of Police,
Vigilance And Anti Corruption,
Kanchipuram.
- 3.The Public Prosecutor,
High Court, Madras.

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