BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :25.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.MP(MD) No.5323 of 2025
in
Crl.A(MD) No.479 of 2025

C.P.Ramakrishnan ... Petitioner

Vs.

State of Tamil Nadu,
Rep by the Inspector of Police,
SPELCBI:ACB:Chennai,
RCMA1 2007(A) 0030 ... Respondent

For Petitioner : Mr.A.Mohamed Ismail

For Respondent : Mr.C.Muthu Saravanan
Special Public Prosecutor

O R D E R

The petitioner/A4 in CC.No.5 of 2009 was tried by the learned II Additional District Judge, CBI cases, Madurai along with three other accused and he was found guilty by the trial Court, convicted and sentenced as under:-

Sl.No	Sections	Punishment	Fine amount	Default
1	120B r/w 420 IPC	3 years Rigorous imprisonment	Rs.20,000/-	6 months simple imprisonment
2	120B IPC r/w Section 13(2) r/w Section 13(1)(d) of Prevention of Corruption Act, 1988	2 years Rigorous imprisonment	Rs.20,000/-	6 months simple imprisonment
3	420 IPC	3 years Rigorous imprisonment	Rs.20,000/-	6 months simple imprisonment

As against the conviction and sentence imposed by the trial Court in CC.No.5 of 2009, dated 28.03.2025, the petitioner has filed a Criminal Appeal in Crl.A(MD) No.479 of 2025 and the same is admitted by this Court today. Along with the appeal, the petitioner has moved this application to suspend the sentence imposed on him by the trial Court.

2.The learned counsel appearing for the petitioner submits that this petitioner is no way connected with the business transactions of A3 and in fact, A3, who has availed the benefit of duty exemption for input with an undertaking that the products would be manufactured and re-exported. However, instead of re-exporting the finished goods, the soiled waste materials have been shown as the final products and exported. Totally 12 consignments were made by A3, out of which, nine consignments were left. On information, the Customs officials have found the soild waste materials have been attempted to export, as if finished goods. Therefore, the respondent has prosecuted as against the officer, who certify that the goods are of genuine. The Manufacturer/exporter were arrayed as A2 and A3 along with this petitioner, who is A4. According to the prosecution, A4 was said to have introduced A3 to PW 31/a clearing agent. During the course of trial, A1 died. A2 & A3 are yet to be arrested . Therefore, the trial as against this petitioner was proceeded and he was convicted as stated supra.

3.The learned counsel further submits that even according to the prosecution, the only allegation as against this petitioner is that he has introduced A3 to PW 31/clearing agent. According to him, the prosecution itself has been laid in order to safeguard PW 31. The consignments have been stuffed in the presence of PW 31. However, the prosecution has not been laid as against the clearing agent/ PW 31. Instead, the petitioner has been prosecuted as if he introduced A3 to PW31.

4.The learned Special Public Prosecutor appearing for the respondent submits that A2 is a Company, which was represented by A3. A3 is the resident of Mumbai. A4 arranged all facilities for A3, as if business establishment has been made at

Tiruppur and introduced A3 to PW 31 and they have also created certain forged lease deed as if, a Godown has been established locally. Without any business transactions, they have imported raw materials from abroad, availed duty concession and created bogus records as if it has been manufactured in India and exported as final goods to abroad, in order to avail duty exemption. On information, the consignments were verified and the Customs officials have found that soiled materials have been dumped in the containers as if finished goods meant for export. A1/Superintendent of Central Excise in the office of the Commissioner of Central Excise has certified that the consignments stuffed in the containers are the finished goods. Though he is not having jurisdiction for issuing such a Certificate, he has issued the certificate, based on which, an attempt was made to export the soiled waste materials. Nine containers have been left and after verifying the remaining containers, they recalled the left out containers also. He further submits that in view of the above, a loss of Rs.3.5 Crores has been made to the Government of India. Therefore, he objects for grant of suspension of sentence to the petitioner.

5.This Court considered the rival submissions made and also perused the materials placed on record.

6.This petitioner is A4 in CC No.5 of 2009, on the file of the II Additional District Court, CBI cases, Madurai. A3 is the representative of A2 Company, namely, M/s. Sweety International Pvt Ltd., who, in fact, availed the benefit of duty exemption for export, under the Duty Exemption Entitlement Certificate Scheme. A1 is the Superintendent of Central Excise in the office of the Commissioner of Central Excise, Trichy. During trial, A1 died. A2 and A3 are yet to be prosecuted. The allegations as against the accused persons is that with an intention to cheat the Government of India in the matter of availing pre-export benefit given to an exporter, under the Duty Exemption Entitlement Certificate Scheme, A3 in the name of A2 have imported the raw-materials from abroad and created bogus documents and instead exporting the finished goods, they attempted to export soiled waste materials, with the help of A1 and A4. According to the prosecution, A4 /the petitioner has introduced A3 to PW 31/clearing agent for establishing a godown for namesake for doing such an unlawful business.

7.The appeal filed by this petitioner as against the conviction and sentence imposed by the trial Court has been admitted by this Court on the grounds raised in support of the appeal. The trial Court while passing the judgment has suspended the sentence imposed on the petitioner, by its order, dated 28.03.2025 for a period of one month. Since the main accused are yet to be prosecuted and A1 died pending trial and also considering that the petitioner's counsel has raised certain arguable points and for the reasons that the appeal could not be taken up immediately, this Court is inclined to suspend the sentence imposed on the petitioner with certain conditions.

8. Accordingly, the substantive sentence of imprisonment alone is suspended pending disposal of the criminal appeal and the petitioner is ordered to be enlarged on bail on the following conditions:-

i. The petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh) with two sureties each for a like sum to the satisfaction of the II Additional District Court, CBI cases, Madurai.

ii. The petitioner shall report before the respondent police daily at 10.30 a.m., till the disposal of the appeal.

iii. On violation of any of the above conditions by the petitioner, the respondent police shall move an application for cancellation of the bail.

sd/-
25/04/2025

/ TRUE COPY /

28/04/2025
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

VRN
TO
1 THE II ADDITIONAL DISTRICT JUDGE, CBI CASES,
MADURAI.

2 THE INSPECTOR OF POLICE,
SPE:CBI:ACB:CHENNAI.

3 THE SPECIAL PUBLIC PROSECUTOR FOR CBI CASES,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. C.C. to MR.A.MOHAMED ISMAIL Advocate SR.No.28166 (F) DT.28/04/2025

ORDER
IN
Crl.MP(MD) No.5323 of 2025
in
Crl.A(MD) No.479 of 2025
Date :25/04/2025

SA/SAR. /28.04.2025/7P/5C