

Crl.M.P.No.6952 of 2016
in
Crl.A.No.474 of 2016
R.SUBBIAH, J

The petitioner herein was convicted for the offences under Sections 294(b), 352, 354 IPC and 3(1)(x) and 3(1)(xi) of the SC/ST (Prevention of Atrocities) Act, 1989 and sentenced to undergo two months simple imprisonment and to pay a fine of Rs.1,000/-, in default to undergo 15 days simple imprisonment under Section 294(b) IPC and sentenced to undergo two months simple imprisonment and to pay a fine of Rs.500/-, in default to undergo 15 days simple imprisonment under Section 352 IPC and sentenced to undergo one year simple imprisonment and to pay a fine of Rs.3,000/-, in default to undergo three months simple imprisonment under Section 354 IPC and sentenced to undergo one year simple imprisonment and to pay a fine of Rs.3,000/-, in default to undergo three months simple imprisonment under Sections 3(1)(x) and 3(1)(xi) of SC/ST (Prevention of Atrocities) Act, 1989, by the learned Sessions Judge, Special Court of Exclusive Trial of Cases Registered under SC/ST (OA) Act, Villupuram, vide judgment dated 31.05.2016 in S.C.No.128 of 2015. Hence, petitioner has come up with the present petition seeking suspension of sentence and enlarge him on bail.

2.The case of the prosecution is that on 11.03.2012 at 11.00 am, while P.W.1 was breast feeding her one year old son, the petitioner had seen from the opposite house in a drunken mood; when P.W.1 questioned the same, the petitioner had bet P.W.1 on her cheek indiscriminately with hand and also on the breast and pushed down her and used filthy language by mentioning her caste name.

3.The learned counsel appearing for the petitioner submitted that there is no independent eyewitness to the occurrence; that the allegations in the deposition would not constitute the offence under any of the sections convicted; moreover, there is a delay of nearly 24 hours in lodging the complaint and no explanation was given by P.W.1 for the delay. But, without considering all these aspects, the Trial Court has convicted the petitioner. Further, according to the learned counsel for the petitioner, there are several infirmities and inconsistencies found in the prosecution case. There are contradictions in the material particulars between the evidence of the prosecution witnesses. Thus, the learned counsel for the petitioner sought for suspension of sentence, pending the appeal.

4.Heard learned Additional Public Prosecutor on the submissions made by learned counsel for the petitioner.

5. Considering the facts and circumstances of the case and in view of the fact that there are several infirmities in the prosecution case and there are arguable points involved in the appeal as contended by learned counsel for petitioner and further the appeal is not likely to be taken up for final hearing in the near future, this Court is of the considered view that petitioner is entitled to the relief of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on his executing 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 learned Judicial Magistrate No.II, Villupuram, and on further condition that the petitioner shall appear before the Trial Court on the first working day of every month at 10.30 a.m., pending appeal.

29.06.2016

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