

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Nineteenth day of January Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice M. VENUGOPAL

CRIMINAL MISCELLANEOUS PETITION No.775 of 2017

IN CRL A.31/2017

1 M.MANNANGATTI

[PETITIONERS]

2 M.SELVAM

3 M.SELVAKUMAR

4 S.ANANTHI

Vs

THE STATE OF TAMIL NADU, [RESPONDENT]

REP. BY DEPUTY SUPERINTENDENT OF POLICE,
GINGEE SUB DIVISION, KEDAR POLICE STATION,
VILLUPURAM DISTRICT.

CR.NO.12 OF 2015

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL A.31/2017 on the file of the High Court, the High Court will be pleased to suspend the sentence passed by the learned Sessions Judge, Special Court for Exclusive Trial of cases registered under the Schedule Caste and Schedule Tribe Prevention of Atrocities Act 1989 Villupuram in Special S.C.No.267 of 2015 dated 20.12.2016 and enlarge the petitioner on bail pending the disposal of the above CRL A.31/2017 [IN CRL.MP.NO.775 OF 2016]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL A.31/2017 on the file of the High Court and upon hearing the arguments of M/S.M.DEVARAJ, Advocate for the petitioner and of MR.R.RAVICHANDRAN, Government Advocate (Crl.Side) on behalf of the Respondent the court made the following order:-

Heard both sides.

2. The Petitioners / Appellants / A.1 to A.4 have preferred the instant Criminal Appeal before this Court (as aggrieved persons) as against the Judgment dated 20.12.2016 in Spl.S.C.No.267 of 2015 passed by the Learned Sessions Judge, (Special Court for Exclusive Trial of Cases Registered under Scheduled Caste and Scheduled Tribe (Prevention of Atrocities Act), 1989), Villupuram.

3. The trial court in the Impugned Judgment in Spl.S.C. No.267 of 2015 on 20.12.2016 had resultantly held that the Respondent / Prosecution had proved the charges against the Petitioners / Appellants / A.1 to A.4 through oral and documentary evidence beyond reasonable doubt and ultimately found them guilty, in respect of an offence under Section 3(1)(x) of Scheduled Caste and Scheduled Tribe (POA) Act, 1989 and sentenced them to undergo Simple Imprisonment for one year each. Further, they were ordered to pay a fine of Rs.5,000/- each and in default of payment of said fine amount, the Petitioners / Appellants / A.1 to A.4 were ordered to undergo Simple Imprisonment for three months.

4. Insofar as the offence under Section 324 of IPC was concerned, the Petitioner Nos. 2 to 4 (A.2 to A.4) were found guilty and they were convicted and sentenced to undergo Simple Imprisonment for the said offence for the period of one year each, besides they were directed to pay a fine of Rs.2,000/- each and on the default of said fine amount, they were ordered to undergo Simple Imprisonment for the period of three months.

5. The trial court insofar as the offence under Section 506(i) of IPC was concerned, found the 2nd and 3rd Petitioners / A.2 and A.3 guilty, convicted and sentenced them to undergo Simple Imprisonment for one year each. Further, they were directed to pay a fine of Rs.2,000/- each and in default of payment of said fine amount, they were ordered to undergo Simple Imprisonment for a period of three months.

6. It is to be noted that the total fine amount payable by the Petitioners / Appellants / A.1 to A.4 comes to Rs.30,000/-. The trial court had ordered the punishments to run concurrently and in fact the period of custody already undergone by the Petitioners / Appellants / A.1 to A.4 were directed to be set off under Section 428 of Cr.P.C.,

7. The Learned Government Advocate (Crl.Side) for the Respondent / Prosecuting Agency submits that before the trial court, in the main case, witnesses P.W.1 to P.W.13 were examined and Ex.P.1 to Ex.P.11 were marked on the side of the prosecution. Further, no one was examined as a defence witness. As a matter of fact, the trial court had appreciated the entire oral and documentary evidence available on record and ultimately found the Petitioners / Appellants / A.1 to A.4 guilty in respect of an offence under Section 3(1)(x) of Scheduled Caste and Scheduled Tribe (POA) Act, 1989 and imposed necessary punishment. In so far as the Petitioner Nos.2 to 4 / A.2 to A.4 are concerned, the trial court found them guilty under Section 324 of IPC and imposed necessary punishment. In regard to the Petitioner Nos.2 and 3 (Appellants 2 and 3 / A.2 and A.3) they were found guilty in respect of offence under Section 506(i) of IPC and they were imposed necessary punishment.

8. In the instant case, the Petitioners / Appellants / A.1 to A.4 have exercised the right of preferring an Appeal before this Court, being dis-satisfied with the Judgment dated 20.12.2016 in Spl.S.C.No.267 of 2015 passed by the trial court. In Law, an 'Appeal' is a continuation of Original Proceedings. At this stage, this Court on perusal of the numerous grounds set out in the 'Memorandum of Grounds of Appeal' is of the considered view that the Petitioners / Appellants have raised some substantial / arguable points which require detail rumination in the hands of this Court at the time of hearing of the final Appeal.

9. It cannot be forgotten that filing of a Miscellaneous Peititon in main Criminal Appeal by the Petitioners / Appellants / A.1 to A.4 seeking Suspension Of Sentence and to release them on bail pending disposal of the main Criminal Appeal, forms an integral part of the main appeal in the considered opinion of this Court.

10. At this stage, it is represented on behalf of the Petitioners / Appellants / A.1 to A.4 that a total fine amount of Rs.30,000/- was paid to the credit of Spl.S.C.No.267 of 2015 on the day of trial court's Judgment on 20.12.2016.

11. Inasmuch as the Petitioners / Appellants / A.1 to A.4 have preferred the instant Criminal Appeal before this Court, this Court taking note of the entire factual aspects of the attendant facts and circumstances of the present case in an integral manner and also bearing in mind yet another primordial fact that the present Criminal Appeal is not likely to be heard in the near future, at this stage, is inclined to suspend the substantial Sentence of Imprisonment alone and directs the release of the Petitioners/ Appellants on their executing a bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only) with two sureties each for a likesum to the satisfaction of the Learned Judicial Magistrate No.II, Villupuram and on further condition that he shall appear before the said Court on the 1st Working day of every English calendar month at 11.00 a.m. without fail till the disposal of the Criminal Appeal.

Accordingly, this Miscellaneous Petition is ordered.

-sd/-
19/01/2017

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.II, VILLUPURAM.

2 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM [FOR INFORMATION]

3 THE SESSIONS JUDGE,
[SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
REGISTERED UNDER SCHEDULED CASTE AND
SCHEDULED TRIBE [PREVENTION OF ATROCITIES
ACT], 1989], VILLUPURAM.

4 THE DEPUTY SUPERINTENDENT OF POLICE,
GINGEE SUB DIVISION, KEDAR POLICE STATION,
VILLUPURAM DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

COPY TO

THE SECTION OFFICER,
CRIMINAL SECTION,
HIGH COURT, MADRAS.

+1C.C. to M/S.M.DEVARAJ Advocate on payment of necessary
charges SR.NO.1249

Order

in
CRL MP.775/2017

in
CRL A.31/2017

Date :19/01/2017

From 7.2.2001 the Registry is issuing certified
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MK:19/01/2017