

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 06.06.2019

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.Rc.No.476 of 2019

1.Praveen Kumar
2.Chandrareddy
3.Radha
4.Rathinamma

...Petitioners

vs.

The State Rep. by
Deputy Superintendent of Police,
Denkanikottai Police Station,
Krishnagiri District.
(Crime No.244 of 2017)

...Respondent

Prayer: Criminal Revision Petition filed under Sections 397 & 401 CrPC against the order dated 29.04.2019 passed in Crl.MP.No.897 of 2019 in Crl.M.P.No.664 of 2019 in S.C.No.126 of 2017 on the file of the Principal Sessions Judge, Krishnagiri.

For Petitioners : Mr.A.Prakash

For Respondent : M/s.Krithika Kamal,
Government Advocate (Crl. Side)

ORDER

It appears that that petitioners were convicted and sentenced in S.C.No.126 of 2017 by the Principal Sessions Judge, Krishnagiri, vide order dated 22.03.2019 for various I.P.C. offences and for the offences under the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act and the maximum sentence imposed on the petitioners was one year imprisonment.

2. The Trial Court has suspended the sentence under Section 389(3) CrPC for a period of one month, so as to enable the petitioners to approach this Court by way of regular appeal and get the sentence suspended. The petitioners filed Crl.A.No.214 of 2019 before this Court challenging the conviction and sentence, which came to be dismissed on 15.04.2019. Thereafter, the petitioners filed a memo before the Trial Court, in S.C.No.126 of 2017, seeking extension of suspended sentence for a further period of one month on the ground that they are intending to move the Hon'ble Supreme

Court. The Trial Court has dismissed the memo, vide order dated 29.04.2019 and challenging the same, the petitioners are before this Court.

3. Heard the submission of the learned counsel for the petitioners.

4. Though this Court has passed the judgement on 15.04.2019 in CrI.A.No.214 of 2019, yet the judgement has not been made ready nor uploaded in the Madras High Court's website, so as to enable to petitioners to approach the Hon'ble Supreme Court within the period of limitation. In such predicament, the learned counsel for the petitioners submitted that the petitioners have no other option, but to approach the Trial Court for extension of the suspended sentence.

5. I am unable to agree with the aforesaid submission in as much as the power under Section 389(3) CrPC empowers the Trial Court for suspending the sentence so as to facilitate the accused to approach the higher Court for appeal and obtain regular orders under Section 389(1) CrPC. After dismissal of the appeal by the Appellate Court, the Trial Court becomes functus officio and cannot exercise powers under Section 389 CrPC for extending the time.

6. This Criminal Revision Petition is devoid of merits and accordingly, it is dismissed.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

Jvm

To

1.The Deputy Superintendent of Police,
Denkanikottai Police Station,
Krishnagiri District.

2.The Principal Sessions Judge,
Krishnagiri.

3.The Public Prosecutor,
High Court, Madras

+1cc to Mr.A.Prakash, Advocate, S.R.No.45141

CrI.Rc.No.476 of 2019

PM(CO)
RRS (05/07/2019)