

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Thirteenth day of November Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL MISCELLANEOUS PETITION No.16143 of 2019

IN CRL.A.No.756 OF 2019

P.RADHA @ RADHAKRISHNAN

[PETITIONER/ACCUSED]

Vs

THE STATE OF TAMIL NADU,
REP. BY DEPUTY SUPERINTENDENT OF POLICE,
SENJI POLICE STATION,
VILLUPURAM DISTRICT,
(CRIME NO.696/2013).

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.No.756 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence passed by the Learned Special Sessions Judge, Villupuram in Spl.S.C.No.60 of 2016 dated 24.09.2016 convicting the Appellant under Section 506(i) of IPC to pay a fine of Rs.1000/- fail in which to undergo simple imprisonment for 3 months, Section 147 of IPC to pay a fine of Rs.1000 fail in which to undergo simple imprisonment for 3 months, section 447 of IPC to pay a fine of Rs.500 fail in which to undergo simple imprisonment for 1 month Section 3(1)(r)(s) of SC/ST (POA) Act and sentenced to undergo One year of Rigorous Imprisonment and to pay a fine of Rs.1,000/- in default to undergo simple imprisonment for 3 months. And the fine amount of Rs.3,500 has been paid by the appellant. In these circumstances the Appellant herein pleased to suspend the sentence of One Year of Rigorous Imprisonment passed by the Special Sessions Judge, Villupuram till the disposal of this Crl.A.No.756 of 2019.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.No.756 OF 2019 on the file of the High Court and upon hearing the arguments of M/S. K.CHANDRASEKARAN, Advocate for the petitioner and of MR. M.MOHAMED RIYAZ, ADDITIONAL PUBLIC PROSECUTOR, on behalf of the Respondent the court made the following order:-

This Criminal Miscellaneous Petition has been filed by the Petitioner/Al, seeking suspension of sentence of imprisonment, imposed by the judgment, dated 24.09.2016, made in Special S.C.No.60 of 2016, by the learned Special Sessions Judge, Villupuram, pending disposal of the Criminal Appeal.

2 This Court heard the learned counsel on either side and also perused the materials placed on record.

3 The learned counsel for the petitioner would submit that the petitioner/A1 was charged for the offences under Sections 147, 148, 447 of IPC and 3(1)(r)(s) of SC/ST (POA) Act, alleging that there was a land dispute between PW1, PW2 and A1 in respect of laying pathway and on 11.05.2013, at 11 a.m., the accused assembled and paved pathway by JCP machine and on seeing the same, PW2 questioned the accused and the accused abused her in a filthy language by saying her caste name and attempted to attack her and pull down PW1 by pulling her hair and threatened them to kill them.

4 In and by the impugned judgement, the Petitioner/ A1 was convicted and sentenced for the offences as under:

S.No.	Conviction	Sentence
1.	U/s.501(i) of IPC	To pay a fine of Rs.1,000/-, in default, to undergo three months simple imprisonment.
2.	U/s.147 of IPC	To pay a fine of Rs.1,000/- in default to undergo three months simple imprisonment.
3.	U/s.447 of IPC	To pay a fine of Rs.500/- in default to undergo one month simple imprisonment.
4.	3(1)(r)(s) of SC/ST (POA) Act	One year simple imprisonment and to pay a fine of Rs.1,000/- in default to undergo three months simple imprisonment.

5 The learned counsel for the petitioner would submit that the Trial Court had convicted the petitioner and sentenced him to undergo rigorous imprisonment for one year and that though independent witness has returned hostile, the Trial Court based on the evidence of interested witnesses, has convicted the petitioner. The learned counsel for the petitioner/A1 would submit that there are arguable points available in the Criminal Appeal, which is not likely to be taken for final hearing in the near future and the Petitioner/A1 has got a fair chance of succeeding in the Criminal Appeal and that the Trial Court had suspended the sentence till 14.11.2019 and hence, the substantive sentence imposed against the Petitioner/A1 may be suspended.

6 The learned Additional Public Prosecutor has raised objections for suspending the sentence.

7 Considering the facts and circumstances of the case and also considering the submissions of the learned counsel on either side, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Appeal, the substantive sentence of imprisonment alone is suspended and the Petitioner/ A1 is ordered to be enlarged on bail, on the following conditions:-

- i. The Petitioner/ A1 shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with two sureties, each for a like sum to the satisfaction of the learned Special Sessions Judge, Villupuram.
- ii. The Petitioner/A1 shall report before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

-sd/-

13/11/2019

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 SPECIAL SESSIONS JUDGE,
VILLUPURAM

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 DEPUTY SUPERINTENDENT OF POLICE,
SENJI POLICE STATION,
VILLUPURAM DISTRICT.

C.C. to M/S. K.CHANDRASEKARAN Advocate on payment of necessary charges SR.NO.23273

Order

in

CRL MP.16143/2019

IN CRL.A.No.756 OF 2019

Date :13/11/2019

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RVR 13/11/2019