



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Twenty Ninth day of April Two Thousand Nineteen

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.3433 of 2019
IN
CRL A(MD) No.149 of 2019

C.SELVAM

... PETITIONER/APPELLANT

Vs

1.STATE REPRESENTED BY
THE DEPUTY SUPERINTENDENT OF POLICE,
THIRUPPATHUR SUB DIVISION,
SIVAGANGAI DISTRICT
(IN S.V.MANGALAM POLICE
STATION, CR.NO.26/2013)

2.MARAGATHAM

... RESPONDENTS/ RESPONDENTS

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence of imprisonment imposed against the petitioner on 03.04.2019 by the Learned Sessions Judge/Special Judge for Trial of Cases under SC/ST (POA) Act, 1989, Sivagangai in S.C.No.73 of 2013 and enlarge the petitioner on bail pending the disposal of the above Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.M.SARAVANAN, Advocate for the petitioner and of Mr.A.ROBINSON, Government Advocate(criminal side) for R1, and No Appearance either in person or by an Advocate for R2, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence of imprisonment passed by the Sessions Judge/Special Judge for Trial of Cases under SC/ST (POA) Act, 1989, Sivagangai, in S.C.No.73 of 2013 and enlarge the petitioner on bail pending appeal.

2.The learned counsel for the petitioner submitted that petitioner was convicted by the trial Court and imposed a fine of Rs.500/-, in default to undergo 1 month RI for the offence under Section 341 IPC and to undergo one year RI and to pay a fine of RS.1,000/-, in default to undergo 1 month RI for each offence under Sections 506(ii) IPC and Section 3(1)(x) of SC/ST (POA) Act.



3. The learned counsel for the petitioner further submitted that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses and erred in convicting the petitioner without any substantial evidence. It is also submitted that the trial court had already suspended the sentence of imprisonment for one month and that the petitioner is the only breadwinner of his family and that there are arguable points in the main appeal. In view of the above circumstances, the petitioner seeks the relief of suspension of sentence till the disposal of the appeal.

4. It is submitted by the learned Government Advocate (Criminal side) that there are enough materials available on record against the petitioner as per the evidence adduced by the prosecution and there is no infirmity in the prosecution case and prays for dismissal of this petition.

5. This court has carefully considered the rival contentions put forward on either side and also perused the materials available on record.

6. The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

7. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner is directed to be enlarged on bail on condition that he shall execute 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 Sessions Judge/Special Judge for Trial of Cases under SC/ST (POA) Act, 1989, Sivagangai and on further condition that the petitioner shall appear before the said court daily twice I.e., at 10.30 am and 5.00 pm pending appeal.

sd/-
29/04/2019

/ TRUE COPY /



TO

1. THE SESSIONS JUDGE/
SPECIAL JUDGE FOR TRIAL OF CASES UNDER
SC/ST(POA), SIVAGANAI.

2. THE DEPUTY SUPERINTENDENT OF POLICE,
THIRUPPATHUR SUB DIVISION,
SIVAGANGAI DISTRICT.

3. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to Mr.M.SARAVANAN Advocate SR.No.7726

ORDER

IN

CRL MP (MD) No.3433 of 2019

IN

CRL A (MD) No.149 of 2019

Date :29/04/2019

TK/MMS/SAR-2/29.04.2019/3P/5C