

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice D.KRISHNAKUMAR

CRL MP No. 4995 of 2020
in Crl.A No. 321 of 2020

V.Shankar Petitioner

vs

1.The State Rep. by
The Deputy Superintendent of Police,
Gingee Range, Villupuram District.

2.M.Krishnan, S/o.Munusamy,
No.2/211, First Street,
Narasingarayanpettai, Chengee,
Villupuram District. Respondent
(R2 suo motu impleaded vide
order dated 16.10.2020 in Crl.M.P.No.4995
of 2020 in Crl.A.No.321 of 2020)

Petition filed under Section 389(1) & (2) of Cr.P.C. to
suspend the conviction and sentence passed in S.S.C.No. 52 of 2016
dated 02.07.2020 by Special Sessions Judge, (SC/ST Cases),
Villupuram and direct to release the petitioner on bail, pending
the disposal of the appeal.

For Petitioner .. Mr.S.Ambigapathi

For Respondent .. Mr.K.Prabhakar,
Addl. Public Prosecutor

WEB COPY
ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner has been arrayed as the sole accused in
S.C.No. 52 of 2016 on the file of Special Sessions Judge, (SC/ST
Cases), Villupuram and charged for the offence punishable under
Sections 324, 307 IPC r/w 3(1)(r) and 3(1)(s), 3(2)(va) of SC/ST
(POA) Amendment Act, 2015. For the offence punishable under
Section 307 IPC, the petitioner was sentenced to undergo ten years
rigorous imprisonment and to pay a fine of Rs.1000/-, in default,

to undergo three months simple imprisonment. For the offence punishable under Section 3(1)(r) SC/ST (POA) Amendment Act, 2015, he was sentenced to undergo two years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo three months simple imprisonment, for the offence punishable under Section 3(1)(s) SC/ST (POA) Amendment Act, 2015, sentenced to undergo two years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo three months simple imprisonment, for the offence punishable under Section 3(2)(v) SC/ST (POA) Amendment Act, 2015, sentenced to undergo life imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo three months simple imprisonment. Seeking suspension of sentence imposed, the present petition has been filed.

2. An affidavit has been filed by the official respondent stating that the victim has already been served. The name of the victim has also been printed in the cause list. However, none appears on behalf of the victim.

3. Learned counsel appearing for the petitioner submitted that it is a case involving registration of FIR, at the instance of the petitioner as well. The offence punishable under the provisions of the SC/ST Act is not made out. Both the petitioner is the Conductor while the victim is the Driver. The victim is the one who attacked the petitioner in an inebriated mood. The petitioner has been under incarceration from 02.07.2020 onwards. He is an employee of the Transport Corporation, being the Conductor. The alleged dispute arose pursuant to the strike call given. Thus, in any case, the provisions of the SC/ST Act, do not have any application. Hence this petition will have to be allowed.

4. Learned Additional Public Prosecutor appearing for the State submitted that there are evidence to substantiate the charges framed against the petitioner and as convicted by the trial Court. Therefore, the present petition will have to be dismissed.

5. We do find existence of arguable points available in this appeal. The petitioner has also given a counter complaint which has been registered. The fact that the petitioner and the victim were working in the same Transport Corporation together is also not in dispute. The victim has also been discharged. Thus, taking into consideration the above said facts, we are inclined to suspend the sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended on condition that the petitioner executes 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 Special Sessions Judge (SC/ST Act Cases), Villupuram and on further condition that the petitioner shall report before the concerned Court on the first working day of every month at 10.30 a.m. pending appeal.

-sd/-
28/10/2020

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
(SC/ST ACT CASES), VILLUPURAM

2 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE DEPUTY SUPERINTENDENT OF POLICE,
GINGEE RANGE, VILLUPURAM DISTRICT

+1C.C. to M/S.S.AMBIGAPATHI Advocate on payment of necessary charges SR NO.7082

WEB COPY

Order
in
CRL.MP.NO.4995/2020
in
CRL.A.NO.321/2020

Date :28/10/2020

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