

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2020

Coram

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

CRL MP No.5662 of 2020
in CrI.A No.375 of 2020

R.Ravikumar ... Petitioner

vs

1.The State Rep. By
Deputy Superintendent of Police,
Erumapatty Police Station,
Namakkal District,
Namakkal.

2.Sathish @ Sathish Kumar Respondents

Petition filed under Section 389(1) Cr.P.C. to suspend the sentence passed in Spl.S.C.No.2/2018, dated 17.09.2020 by the Special Court for SC & ST (POA) Act Cases, Namakkal.

For Petitioner .. Mr.R.Vivekananthan

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

ORDER

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

The petitioner has been arrayed as the first accused in Spl.S.C.No.2/2018 on the file of Special Court for SC & ST (POA) Act Cases, Namakkal and charged for the offence punishable under Sections 147 r/w 3(2)(va) of SC/ST (POA) Amendment Act, 2015, Section 148 IPC r/w 3(2)(va) of SC/ST (POA) Amendment Act, 2015, Section 341 IPC r/w 3(2)(va) of SC/ST (POA) Amendment Act, 2015, Section 294(b) IPC, Section 3(1)(r) of SC/ST (POA) Amendment Act, Section 3(1)(s) of SC/ST (POA) Amendment Act, 2015, Section 324 IPC r/w 3(2)(va) of SC/ST (POA) Amendment Act, 2015, Section 323 r/w 3(2)(va) of SC/ST (POA) Amendment Act, 2015 and Section 326 IPC r/w 3(2)(V) of SC/ST (POA) Amendment Act, 2015. The trial Court, by judgment dated 17.09.2020, convicted the petitioner for the offence punishable under Section 326 IPC r/w 3(2)(V) of SC/ST (POA) Amendment Act, 2015 and sentenced him to undergo life imprisonment and to pay a fine of Rs.1,000/-, in default, to

undergo four years simple imprisonment and further directed to pay a sum of Rs.50,000/- as victim compensation under Section 357 Cr.P.C. Seeking suspension of sentence imposed, the present petition has been filed.

2. The case of the prosecution is that due to the prior motive pursuant to the dispute between the family of the petitioner and the victim over the pathway, the petitioner committed the alleged offence along with A2 to A6. The trial Court acquitted A2 to A6 while convicting the petitioner/A1.

3. Learned counsel appearing for the petitioner submitted that even the evidence of P.W.1 is to the effect that he did not distinctly remember the specific overt act attributed to the accused persons. P.W.3 has stated about the pendency of the civil suit with interim order granted in favour of the petitioner. There was an earlier complaint given by the petitioner against the father of the victim/P.W.1, which is also stated to be pending. Thus, in the light of the above, the sentence will have to be suspended.

4. Learned Additional Public Prosecutor appearing for the State submitted that the conviction has been rendered placing reliance upon the evidence of P.Ws 1 to 11.

5. In the case on hand, all the co-accused have been acquitted whereas the petitioner has been convicted only under Section 326 IPC read with Section 3(2)(va) of SC/ST (POA) Amendment Act, 2015.

6. Despite service of notice and the name of the counsel for the second respondent/victim having been printed in the cause list, none appears on behalf of the victim.

7. After hearing the submissions made by the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor, we do find arguable points available in the appeal. There existed a dispute over the pathway between the families of the petitioner and the victim. There was also an injunction order in favour of the petitioner. The petitioner has also given complaint earlier against the other party. The evidence of P.W.1 is also not very clear with respect to the specific overt act attributed. Thus, taking note of the above, we are inclined to suspend the sentence.

8. 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 Court for SC & ST (POA) Act Cases, Namakkal 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. However, we make it clear that without prejudice to the contentions on merit, which is to be decided in the appeal, the amount of Rs.50,000/-, as awarded by the trial Court in favour of the victim, towards compensation by invocation of Section 357 of the Code of Criminal Procedure, shall be paid by the petitioner within a period of four weeks from the date of receipt of a copy of this order.

-sd/-
12/10/2020

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 COURT FOR SC & ST (POA) ACT CASES,
NAMAKKAL.

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE DEPUTY SUPERINTENDENT OF POLICE,
ERUMAIPATY POLICE STATION,
NAMAKKAL DISTRICT, NAMAKKAL.

सत्यमेव जयते
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+1C.C. to M/S. R.VIVEKANANTHAN Advocate on payment of
necessary charges SR NO.6802

Order

in
CRL MP.5662/2020

in
CRL A.375/2020

Date :12/10/2020

From 7.2.2001 the Registry is issuing certified
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MK:12/10/2020



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