

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.M.P.Nos.6426 & 6097 of 2020

in

CRL.R.C.No.421 & 398 of 2020

- 1.Balu @ Boopalan ... Petitioner/A1 in
Crl.M.P.No.6426 of 2020
- 2.Mathi @ Mathiyazhagan ... Petitioner/A3 in
Crl.M.P.No.6426 of 2020
- 3.Dineshkumar @ Dinesh ... Petitioner/A6 in
Crl.M.P.No.6426 of 2020
- 4.Gowtham ... Petitioner/A7 in
Crl.M.P.No.6426 of 2020
- 5.Pradap ... Petitioner/A4 in
Crl.M.P.No.6097 of 2020
- 6.Prasanna ... Petitioner/A5 in
Crl.M.P.No.6097 of 2020
- Vs.
- 1.The Deputy Superintendent of Police,
Namakkal Sub Division,
Namakkal District.
Crime No.72/2019.
- 2.Mr.John Pandian ... Respondents

PRAYER in CRL.M.P.No.6426 of 2020: Criminal Miscellaneous Petitions filed under Sections 389(1) and 439 of Criminal Procedure Code to suspend the sentence imposed against the petitioners/accused in Special Sessions Case No.23 of 2019 on the file of the learned Special Court for SC and ST(POA) Act cases at Namakkal by its Judgment dated 09.09.2020 convicting the petitioner/Accused A-1, A-3, A-6 and A-7 herein for the offence under Section 147 of I.P.C r/w 3(2)(Va) of SC/ST (POA) Act and sentenced to undergo rigorous imprisonment for two years each and imposed fine sum of Rs.1,000/- each in default of payment to undergo 6 months simple imprisonment each. Further, A-1, A-3, A-6 and A-7 herein for the offences under Section 148 of IPC r/w 3(2)(Va) of SC/ST (POA) Act, and sentenced to undergo three years

rigorous imprisonment each and to pay a fine of Rs.1,000/- in default to undergo six months simple imprisonment each. Further, A-1, A-3, A-6 and A7 herein were convicted for the offences under Section 323 of IPC r/w 3(2) (Va) of SC/ST(POA)Act, and sentence to undergo one year rigorous imprisonment each and to pay a fine of Rs.1,000/- each in default to undergo six months simple imprisonment each and further, A-1, A-3, A-6 and A-7 herein were convicted for the offences 324 of IPC(2 counts) r/w 3(2)(Va) of SC/ST (POA) Act, and sentenced to undergo three years Rigorous Imprisonment and to pay a fine of Rs.1,000/-,each, in default to undergo six months simple imprisonment each and enlarge the petitioners on bail till the disposal of the above appeal.

Prayer in CRL.M.P.No.6097 of 2020: Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C., to suspend the sentence passed against the petitioners by the Special Court for SC & ST (POA) Act cases, Namakkal in Special Sessions Case No.23/2019 dated 09.09.2020 pending criminal appeal.

For Petitioner : Mr.C.D.Johnson
in Crl.M.P.No.6426 of 2020

For Petitioner : Mr.M.Jaikumar
in Crl.M.P.No.6097 of 2020

For respondent : Mr.C.Iyyappa Raj
in both Crl.M.P's Additional Public Prosecutor

O R D E R

These Criminal Miscellaneous Petitions have been filed to suspend the sentence passed against the petitioners by the Special Court for SC & ST (POA) Act cases, Namakkal in Special Sessions Case No.23/2019 dated 09.09.2020 pending criminal appeal.

2. The case of the prosecution is that on 29.04.2019 at about 5.30 p.m., the defacto complainant and his friend Vignesh, while return to their home after having tiffin in Alangatham Road Junction, the accused/A1 to A7 formed an unlawful assembly. At that time, the defacto complainant asked the accused No.1 why they are standing in the place, immediately the accused got angry and assaulted the defacto complainant and his friend Vignesh and abused in filthy language. Hence, the complaint.

3. The learned counsel for the petitioners would submit that the lower Court failed to consider the evidence in a proper and perceptive manner and gave a wrong finding and convicted the petitioners. Against which, the present petitions have been filed. He would further submit that except the relatives of the defacto complainant, there are no private witnesses in this case. Hence, he prayed for grant of suspension of sentence to the petitioners.

4. The learned Additional Public Prosecutor would submit that the defacto complainant and his friend Vignesh, while return to their home after having tiffin in Alangatham Road Junction, the accused/A1 to A7 formed an unlawful assembly. At that time, the defacto complainant asked the accused No.1 why they are standing in the place, immediately the accused got angry and assaulted the defacto complainant and his friend Vignesh and abused in filthy language. Hence, he opposed for grant of suspension of sentence to the petitioners.

5. In view of the above submission, this Court is inclined to suspend the sentence imposed on the petitioners. Accordingly, the petitioners are directed to be enlarged on bail on condition to execute 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 Special Court for SC & ST (POA) Act Cases, Namakkal, within a period of 15 days from the date of receipt of a copy of this Order and on further condition that the petitioners shall appear before the said Court once in three months at 10.30 a.m. from 2021 till the disposal of the appeal.

5. Accordingly, the Criminal Miscellaneous Petitions stand ordered.

-sd/-
22/12/2020

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 PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE DEPUTY SUPERINTENDENT OF POLICE,
NAMAKKAL SUB DIVISION,
NAMAKKAL DISTRICT.

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+1C.C. to M/S.C.D .JOHNSON Advocate on payment of necessary charges SR NO.8565

+1C.C. to M/S.M.JAIKUMAR Advocate on payment of necessary charges SR NO.8564

Order

in

CRL.MP.NOS.6426 & 6097 OF 2020

in

CRL.RC.NOS.421 & 398 OF 2020

Date :22/12/2020

From 7.2.2001 the Registry is issuing certified copies of the BAIL/Anti.BAIL Orders in this format

MK:07/01/2021



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