

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.05.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

Crl.MP.No.5678 of 2021

and

Crl.A. No.234 of 2021

1.Nepoleon @ Nedunchezhiyan
2.Selvam
3.Rajadurai
4.Sekar
5.Kumar

... Petitioners

-Vs-

1.State by
The Deputy Superintendent of Police,
Attur Sub Division,
(Veeraganur Police Station),
Salem District.
Crime No.149 of 2014.

2.Parameswaran

... Respondents

Criminal Miscellaneous Petition is filed under Section 389 (1) of Cr.P.C. to suspend the sentence imposed in the judgment dated 14.12.2020 passed in S.C.No.141 of 2015 on the file of Principal Sessions Judge, Salem (Special Judge for Scheduled and Scheduled Tribes (Prevention of Atrocities) Act, 1989, release the petitioners on bail until disposal of the above appeal.

For Petitioners : Mr.P.Jagadeesan

For Respondents : Ms.Saradha Devi
Government Advocate (Crl.Side)
for R2

ORDER

The petitioners figured as accused No.1 to 5 in S.C.No.141 of 2015 on the file of learned Principal Sessions Judge, Salem (Special Judge for Scheduled and Scheduled Tribes (Prevention of Atrocities) Act, 1989. By the impugned judgment dated 14.12.2020, the trial court convicted the petitioners for the offence following offences :

Petitioner / Accused	Conviction	Sentence
1 st Petitioner/ Accused No.1	Convicted for the offences under Sections 147, 294 (b), 323 (2 counts), 324 r/w 149 (2 counts) IPC and Section 3(1)(r) (2 counts), 3(1)(s) (2 counts) and 3(2)(va) of SC/ST (POA) Act as amended under the Ordinance, 2014.	(a) To undergo rigorous imprisonment for a period of two years for the offence under Section 147 IPC. (b) To undergo rigorous imprisonment for a period of three months for the offence under Section 294(b) IPC. (c) To undergo rigorous imprisonment for a period of one year for each count for the offence under Section 323 IPC (two counts). (d) To undergo rigorous imprisonment for a period of two years for each count for the offence under Section 324 r/w 149 (two counts) IPC. (e) To undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for nine months for each count for the offence under Section 3(1)(r) of SC/ST (POA) Act as Amended Ordinance, 2014 (two counts). (f) To undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of nine months for each count for the offence under Section 3(1)(s) of SC/ST (POA) Act as Amended Ordinance, 2014 (Two counts). (g) To undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of six months for the offence under Section 3(2)(va) of SC/ST (POA) Act as amended Ordinance, 2014.

Petitioner / Accused	Conviction	Sentence
2 nd Petitioner/ Accused No.2	Convicted for the offences under Section 148, 294(b), 323 r/w 149 (2 counts), 324 (2 counts) IPC and Section 3(1)(r) (2 counts), 3(1)(s) (2 counts) and 3(2)(va) of SC/ST (POA) Act as amended under the Ordinance, 2014.	(a) To undergo rigorous imprisonment for a period of three years for the offence under Section 148 IPC. (b) To undergo rigorous imprisonment for a period of three months for the offence under Section 294(b) IPC. (c) To undergo rigorous imprisonment for a period of one year for each count for the offence under Section 323 r/w 149 (two counts) IPC. (d) To undergo rigorous imprisonment for a period of two years for each count for the offence under Section 324 (two counts) IPC. (e) To undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for nine months for each count for the offence under Section 3(1)(r) of SC/ST (POA) Act as Amended Ordinance, 2014 (two counts). (f) To undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of nine months for each count for the offence under Section 3(1)(s) of SC/ST (POA) Act as Amended Ordinance, 2014 (Two counts). (g) To undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of six months for the offence under Section 3(2)(va) of SC/ST (POA) Act as amended Ordinance, 2014.

Petitioner / Accused	Conviction	Sentence
3 rd petitioner/ Accused No.3	Convicted for the offences under Section 148, 294(b), 323 (2 counts), 324 (2 counts) IPC and Section 3(1)(r) (2 counts), 3(1)(s) (2 counts) and 3(2)(va) of SC/ST (POA) Act as amended under the Ordinance, 2014.	(a) To undergo rigorous imprisonment for a period of three years for the offence under Section 148 IPC. (b) To undergo rigorous imprisonment for a period of three months for the offence under Section 294(b) IPC. (c) To undergo rigorous imprisonment for a period of one year for each count for the offence under Section 323 (two counts) IPC. (d) To undergo rigorous imprisonment for a period of two years for the offence under Section 324 IPC. (e) To undergo rigorous imprisonment for a period of two years for the offence under Section 324 r/w 149 IPC. (f) To undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for nine months for each count for the offence under Section 3(1)(r) of SC/ST (POA) Act as Amended Ordinance, 2014 (two counts). (g) To undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of nine months for each count for the offence under Section 3(1)(s) of SC/ST (POA) Act as Amended Ordinance, 2014 (Two counts). (h) To undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of six months for the offence under Section 3(2)(va) of SC/ST (POA) Act as amended Ordinance, 2014.

Petitioner / Accused	Conviction	Sentence
4 th Petitioner/ Accused No.4	Convicted for the offences under Section 147, 294(b), 323 (2 counts), 324 r/w 149 (2 counts) IPC and Section 3(1) (r) (2 counts), 3(1) (s) (2 counts) and 3(2) (va) of SC/ST (POA) Act as amended under the Ordinance, 2014.	(a) To undergo rigorous imprisonment for a period of two years for the offence under Section 147 IPC. (b) To undergo rigorous imprisonment for a period of three months for the offence under Section 294(b) IPC. (c) To undergo rigorous imprisonment for a period of one year for each count for the offence under Section 323 (two counts) IPC. (d) To undergo rigorous imprisonment for a period of two years for each count for the offence under Section 324 r/w 149 (two counts) IPC. (e) To undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for nine months for each count for the offence under Section 3(1)(r) of SC/ST (POA) Act as Amended Ordinance, 2014 (two counts). (f) To undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of nine months for each count for the offence under Section 3(1)(s) of SC/ST (POA) Act as Amended Ordinance, 2014 (Two counts). (g) To undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of six months for the offence under Section 3(2) (va) of SC/ST (POA) Act as amended Ordinance, 2014.

Petitioner / Accused	Conviction	Sentence
5 th Petitioner/ Accused No.5	Convicted for the offences under Section 147, 294(b), 323 (2 counts), 324 r/w 149 (2 counts) IPC and Section 3(1) (r) (2 counts), 3(1) (s) (2 counts) and 3(2) (va) of SC/ST (POA) Act as amended under the Ordinance, 2014.	(a) To undergo rigorous imprisonment for a period of two years for the offence under Section 147 IPC. (b) To undergo rigorous imprisonment for a period of three months for the offence under Section 294(b) IPC. (c) To undergo rigorous imprisonment for a period of one year for each count for the offence under Section 323 (two counts) IPC. (d) To undergo rigorous imprisonment for a period of two years for each count for the offence under Section 324 r/w 149 (two counts) IPC. (e) To undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for nine months for each count for the offence under Section 3(1)(r) of SC/ST (POA) Act as Amended Ordinance, 2014 (two counts). (f) To undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of nine months for each count for the offence under Section 3(1)(s) of SC/ST (POA) Act as Amended Ordinance, 2014 (two counts). (g) To undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of six months for the offence under Section 3(2) (va) of SC/ST (POA) Act as amended Ordinance, 2014.

Challenging the judgment passed in S.C.No.141 of 2015 dated 14.12.2020 on the file of the learned Principal Sessions Judge, Salem (Special Judge for Scheduled and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the petitioners have filed the above miscellaneous petition seeking suspension of substantive sentence of imprisonment.

2. Heard the learned counsel for the petitioners.

3. The learned Additional Public Prosecutor submitted that the Court below has appreciated the entire evidence and has given elaborate reasons for convicting and sentencing the petitioners.

4. There are arguable points which requires a consideration in the appeal and the appeal cannot be taken up for hearing in the near future. Therefore, this Court is inclined to suspend the sentence imposed by the Court below.

5. The sentence imposed by the Court below vide Judgment made in S.C.No.141 of 2015 dated 14.12.2020 on the file of learned Principal Sessions Judge, Salem (Special Judge for Scheduled and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is hereby suspended on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties each for a like sum to the satisfaction of the learned Principal Sessions Judge, Salem (Special Judge for Scheduled and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

6. Accordingly, this petition is ordered.

-sd/-

06/05/2021

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 PRINCIPAL SESSIONS JUDGE,
SALEM
(SPECIAL JUDGE FOR SCHEDULED AND SCHEDULED TRIBES
(PREVENTION OF ATROCITIES) ACT, 1989.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

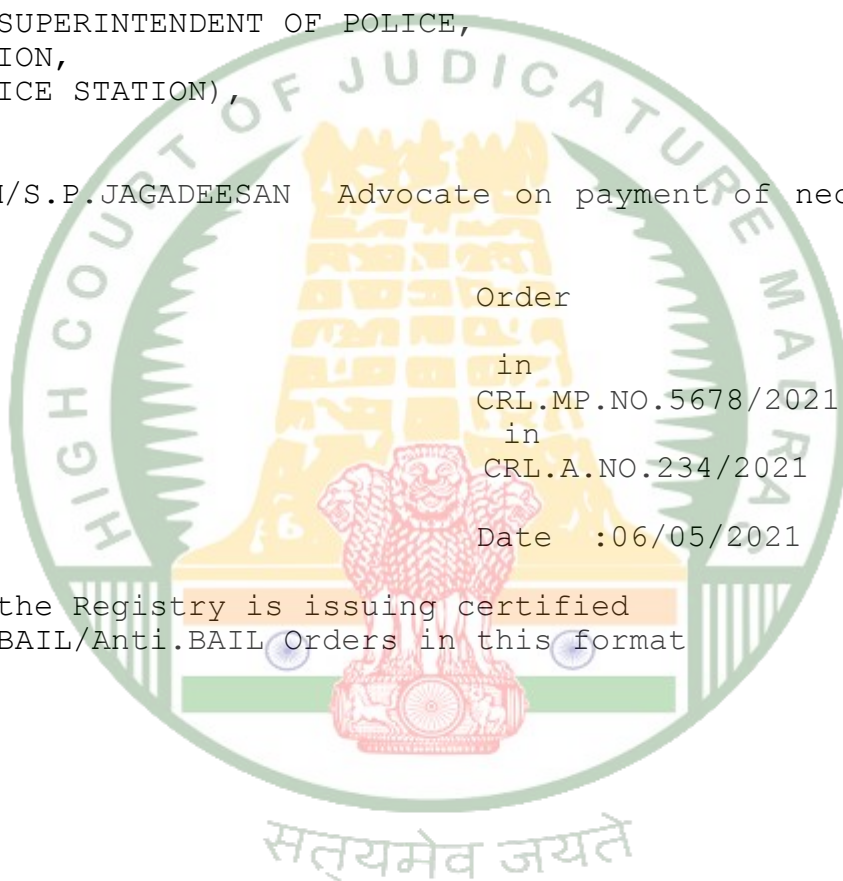
3 THE DEPUTY SUPERINTENDENT OF POLICE,
ATTUR SUB-DIVISION,
(VEERAGANUR POLICE STATION),
SALEM DISTRICT.

C.C. to M/S.P.JAGADEESAN Advocate on payment of necessary
charges

Order
in
CRL.MP.NO.5678/2021
in
CRL.A.NO.234/2021
Date :06/05/2021

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MK:29/06/2021



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