



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Ninth day of October Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice P. VELMURUGAN

CRIMINAL MISCELLANEOUS PETITION No.10994 of 2021

IN CRL A.499/2021

SIVAKUMAR

[APPELLANT/ACCUSED]

Vs

THE STATE REPBY
THE DEPUTY SUPERINTENDENT OF POLICE,
MARUVATHUR POLICE STATION,
PERAMBALUR.

[RESPONDENT/COMPLAINANT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

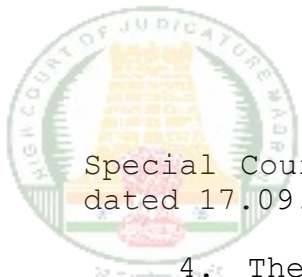
(i) To suspend the sentence passed on the appellant by special sessions judge, Special Court of SC/ST(POA) Act, Perambalur in Special Sessions case No.30 of 2018 dated 17/09/2021 herein during the pendency of the above Crl.A.No.499 of 2021.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.A.S.BALAJI, Advocate for the petitioner, and of MR.S.SUGENDRAN, GOVERNMENT ADVOCATE [CRL. SIDE] on behalf of the Respondent, the court made the following order:-

The respondent police registered a case against the petitioner for the offence under section 294(b), 323, 354, 506(i) IPC. After completing the formalities, the trial Court framed the charges. Subsequently, charges were altered into sections 337, 347, 498, 354 I.P.C r/w 3(1) (IX) 3(2) (vi) of SC/ST Act and section 4 of TNPWH Act.

2. The trial Court, after trial, convicted the petitioner for the offence under sections 323, 354, 337, 347 I.P.C and Section 4 of TNPWH Act and also under section 3(1)(w)(i) of SC/AT Act. Challenging the said judgment of conviction and sentence, the petitioner has filed the present Revision before this Court.

3. The Crl.M.P.No.10994 of 2021 has been filed seeking for suspension of sentence passed by the learned Special Sessions Judge,



Special Court of SC/ST(POA) Act, Perambalur in Spl.S.C.No.30 of 2018 dated 17.09.2021 till the disposal of the appeal.

4. The learned counsel for the petitioner would submit that originally the case was not registered for the offence under section SC/ST Act. Even a charge sheet was also not filed by the respondent under the abovesaid section. But the trial Court framed the charges for the offence under section SC/ST Act. During the pendency of the trial, the defacto complainant approached this Court and got directions to incorporate the offence under section SC/ST and charges were also framed. After the commencement of trial, the trial Court convicted the appellant for the offence under SC/AT Act. In the complaint also, the defacto complainant has not stated anything about the allegation falls under SC/AT Act. Therefore, the trial Court has failed to consider this case and mechanically convicted the petitioner for the offence under SC/ST Act. Therefore, he has got arguable points in this case.

5. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that originally the respondent police registered a case for the offence under sections 294(b), 323, 354, 506(i) IPC and the charge sheet also filed. Thereafter, the defacto complainant approached this Court for incorporating the offence under section 3(w)(1) of SC/ST Act. Based on the direction of this Court, the trial Court, framed the charge and conducted the trial and came to a conclusion that the appellant has committed the offence under section 3(w)(1) of SC/ST Act also. Therefore, the contention raised by the learned counsel for the appellant is not legally sustainable.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent.

7. Considering the facts and circumstances and the nature of the offence, the defacto complainant who is the member of the SC community, the petitioner is non-member of the SC Community, this Court is not inclined to order suspension of sentence. Hence, Criminal Miscellaneous Petition is dismissed.

8. Registry is directed to call for the records and prepare the typed set of papers and list the matter for final disposal, soon after the papers are made ready.

-sd/-
29/10/2021

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 SPECIAL SESSIONS JUDGE
SPECIAL COURT OF SC/ST (POA) ACT,
PERAMBALUR.

2. THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3. THE DEPUTY SUPERINTENDENT OF POLICE,
MARUVATHUR POLICE STATION,
PERAMBALUR.

4. THE SECTION OFFICER,
CRIMINAL SECTION,
HIGH COURT, MADRAS.

C.C. to M/S.A.S.BALAJI Advocate on payment of necessary charges

Order

in
CRL MP.10994/2021

in
CRL A.499/2021

Date :29/10/2021

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

TA-26/11/2021