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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.M.P.No.4908 of 2022

in Crl.A.No.404 of 2022

Murugasen
S/o.Subramaniya Udayar

...Petitioner /
A-1

versus

Deputy Superintendent of Police,
Perambalur Circle,
Maruvathur Police Station,
Perambalur District.
(Crime No.24 of 2007)

...Respondent /
Complainant

PRAYER: Criminal Miscellaneous Petition has been filed under Section 439 r/w 389 (3) of Cr.P.C., praying to suspend the sentence imposed by the learned Sessions Judge, Special Court for SC/ST (POA) Act, Perambalur in Special S.C.No.4 of 2008 dated 08.03.2022 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.E.C.Ramesh

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)

ORDER

This Criminal Miscellaneous Petition has been preferred by the petitioner/A-1, seeking to suspend the sentence of imprisonment imposed upon him, by judgment and order dated 08.03.2022 passed in Special S.C.No.4 of 2008 on the file of the learned Sessions Judge, Special Court for SC/ST (POA) Act, Perambalur and to enlarge him on bail, pending disposal of the appeal.

2. The petitioner, who is arrayed as A-1 in Special S.C.No.4 of 2008 on the file of the learned Sessions Judge, Special Court for SC/ST (POA) Act, Perambalur. He was found guilty for the offences punishable under Sections 342, 324 r/w 34 of IPC, Sections 3(1)(xi) of SC/ST (POA) Act r/w 34 of IPC and Section 3(1)(x) of SC/ST (POA) Act and has been convicted and sentenced as under:



Offence	Sentence
Section 342 IPC	Rigorous Imprisonment for 3 months
Section 324 r/w 34 IPC	Rigorous Imprisonment for 1 year
Section 3(1)(xi) of SC/ST (POA) Act r/w 34 IPC	Rigorous Imprisonment for 1 year along with fine of Rs.5,000/-, in default, to undergo Simple Imprisonment for 3 months
Section 3(1)(x) of SC/ST (POA) Act	Rigorous Imprisonment for 2 years along with fine of Rs.10,000/-, in default, to undergo Simple Imprisonment for 6 months
The aforesaid sentences were ordered to run concurrently.	

3. Challenging the above conviction and sentence, the petitioner/accused, has filed Crl.A.No.404 of 2022 along with the instant Miscellaneous Petition, seeking suspension of sentence and bail.

4. The case of the prosecution is that the *de facto* complainant and 15 others had received Rs.35,000/- from the petitioner/A-1 as advance amount for contract labourers. Since the petitioner felt that they did not perform their work in a proper manner, there was misunderstanding arose between the petitioner and the contract labourers. Therefore, this petitioner locked the contract labourers in a grain storage and tortured them. Thereafter, the said amount was settled by one Thangarasu. Later, A-2 said that his cell phone was missing and in view of the same, he took the *de facto* complainant to petitioner's house and removed her dress, caused injury and scolded her in filthy language by using her caste's name. Hence, a case has been registered against the petitioner under Sections 342, 324 r/w 34 of IPC, Sections 3(1)(xi) of SC/ST (POA) Act r/w 34 of IPC and Section 3(1)(x) of SC/ST (POA) Act.

5. According to the learned counsel for the petitioner, there are arguable points available in this appeal and the petitioner has got a fair chance of succeeding in this appeal and hence, the substantive sentence imposed against the petitioner may be suspended before the trial Court.

6. Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent police raised serious objection for allowing this petition. He would further submit that the petitioner has already granted bail by the trial Court. He would contend that the evidences recorded from the prosecution witnesses would prove the case of the prosecution beyond reasonable doubt. According to him, interference of this Court is not necessary in the findings arrived at by the trial Court.



7. Heard Mr.E.C.Ramesh, learned counsel appearing for the petitioner/accused and Mr.Leonard Arul Joseph Selvam, learned Government Advocate (Crl. Side), appearing for the respondent/State and also perused the materials placed on record.

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8. Submissions made by the learned counsel appearing on either side are considered. The evidence given by P.W.1 needs a detailed appraisal as to whether the provisions under Section 3(1)(xi) of SC/ST Act, is attracted or not. Further, the petitioner has already granted bail by the trial Court. Here, it is a case, the appeal is not likely to be taken up in the near future. In such a view of the matter, this Court is of the view that the petitioner/A-1 is entitled to the relief of suspension of sentence and bail.

9. Accordingly, sentence of imprisonment alone is suspended and bail is granted to the petitioner on the following conditions:

(a) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for SC/ST (POA) Act, Perambalur;

(b) The petitioner/accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities; and

(c) The petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

10. With the above directions, this Criminal Miscellaneous Petition is ordered.

-sd/-
12/04/2022

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

2 THE DEPUTY SUPERINTENDENT OF POLICE,
PERAMBALUR CIRCLE, MARAUVATHUR POLICE STATION,
PERAMBALUR DISTRICT.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1C.C. to M/S E.C.RAMESH Advocate on payment of necessary
charges SR.No.5591

Order
in
CRL MP.4908/2022
in
CRL A.404/2022
Date :12/04/2022

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CSK 12/04/2022