



Crl.M.P.No.19201 of 2022
in Crl.A.No.1274 of 2022

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2022

CORAM:

THE HON'BLE MR.JUSTICE **M. NIRMAL KUMAR**

Crl.M.P.No.19201 of 2022
in
Crl.A.No.1274 of 2022

Subash

... Petitioner/Accused

Vs.

1.State represented by
The Deputy Superintendent of Police,
Arakkonam Sub Division,
Nemili Police Station.

2.The Sub Inspector of Police,
Nemili Police Station.
Vellore District.
(Crime No.355 of 2012)

... Respondents

PRAYER: Criminal Miscellaneous Petition has been filed under Section 389 (1) of Cr.P.C to suspend the sentence passed in Spl.S.C.No.48 of 2020 dated 09.11.2022 by the learned Sessions Judge, Special Court for Trial of Cases under SC/ST(POA) Act, Vellore and grant bail pending disposal of the above appeal.

For Petitioner : Mr.S.Ganeshkumar

For Respondent : Mr.C.E.Prathap
Government Advocate (Crl. Side)



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ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner/accused, seeking suspension of sentence of imprisonment imposed by the learned Sessions Judge, Special Court for Trial of Cases under SC/ST(POA) Act, Vellore by judgment dated 09.11.2022 made in Spl.S.C.No.48 of 2020 and enlarge the petitioner/appellant on bail pending disposal of the above Criminal Appeal.

2. The petitioner/appellant herein is the accused in Spl.S.C.No.48 of 2020 on the file of the learned Sessions Judge, Special Court for Trial of Cases under SC/ST(POA) Act, Vellore. He was found guilty for the offences punishable under Sections 341 and 352 of I.P.C. and 3 of TNPPD Act and he has been convicted and sentenced as under:

Petitioner /Accused	Conviction	Sentence
Petitioner/Accused	Sections 341 and 352 of I.P.C.	to pay a fine of Rs.500/- for each offence, in default to undergo 15 days simple imprisonment.
	Section 3 of TNPPD Act	To undergo one year simple imprisonment.
Total fine imposed against the petitioner/Accused is Rs.500/-		



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3. Challenging the above conviction and sentence, the petitioner/accused has filed Crl.A.No.1274 of 2022 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. The gist of the case is as follows:-

The de-facto complainant/Narasimman, who is the resident of Duraiyur Colony, Arakkonam Taluk was owning an auto and plying the same between the Duraiyur and Uliyanur Village. On 13.08.2012, the de-fact complainant picked up the school children in his Auto, which was witnessed by P.W.1 and P.W.2, who are auto drivers, riding separate auto. At about 5.15 p.m. on the same day, the petitioner is said to have restrained the de-facto complainant and abused him by calling his caste name and caused damage to his auto. Hence, a case in Crime No.355 of 2012 was registered by the respondent Police for offence under Sections 341, 294(b), 352, 506(i) I.P.C. r/w. Sec.3(1)(x) of SC/ST (PoA) Act and Section 3 of TNPPDL Act.

5. Before the trial Court, on the side of the prosecution, 8 witnesses examined as P.W.1 to P.W.8 and marked 13 documents as Exs.P1 to P13 and marked material object as M.O.1. On the side of the defence, no witnesses



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examined and no documents marked. On conclusion of the trial, the petitioner was convicted as stated above, against which, the present appeal has been filed.

6. The contention of the petitioner is that on 13.08.2012, the entire villagers held a boycott and agitation for not providing basic facilities and road facilities to the villagers and it was decided by the villagers that no one should ply any vehicle. Contrary to the same, the de-facto complainant plied auto and earned money, which was objected by the petitioner, for which, a false complaint has been lodged. In the complaint as well as in the statement under Section 161 Cr.P.C., there is no mention about using of abusive words by calling caste name. Thereafter, improvement has been made due to political group. Hence, the petitioner has been falsely implicated in this case. In this case, the de-facto complainant/Narasimman passed away, hence, he could not be examined. P.W.1 and P.W.2, co-auto drivers, who are projected as though they seen the abuse of the petitioner. Further, the learned counsel submitted that the sentence imposed on the petitioner was suspended till 09.12.2022. Further, the petitioner has arguable points and fair chance of success in this appeal. Thus, he prayed for Suspension of Substantive Sentence of Imprisonment imposed on the petitioner till the disposal of the appeal.



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7. Learned Government Advocate (Crl.Side) appearing for the respondents-Police submitted that the petitioner knowing that the de-facto complainant belonging to a depressed community, used abusive words and caused damage to the Auto. The occurrence has been clearly spoken to by P.W.1 to P.W.4 as well as P.W.7. The petitioner's contention that there is no acceptable evidence or material produced by the prosecution to prove damage caused to the auto is not acceptable. In the observation mahazar the damage is recorded, the witnesses have clearly mentioned about the damage caused to the vehicle, further the dealer of the auto spare parts from whom, the de-facto complainant purchased the materials, confirm damage caused to the auto. The trial Court on the evidence of the witnesses and materials had rightly convicted the petitioner. Hence, he opposed for grant of bail.

8. Considering the facts and circumstances of the case and the avocation of the petitioner, who is a lorry driver and also taking note of the fact that there are arguable points involved in this appeal and it would take some time for the appeal to be taken up for final hearing, this Court is inclined to suspend the Substantive Sentence of Imprisonment alone till the disposal of the appeal.



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9. Accordingly, the Substantive Sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the appeal and the petitioner is ordered to be enlarged on bail, on condition that he shall execute 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 the learned Sessions Judge, Special Court for trial of Cases under SC/ST (POA) Act, Vellore.

10. Further, the petitioner is directed to appear before the trial Court on first working day of a month once in six months at 10.30 a.m., until further orders.

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To

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- 1.The Deputy Superintendent of Police,
Arakkonam Sub Division,
Nemili Police Station.
- 2.The Sub Inspector of Police,
Nemili Police Station.
Vellore District.
- 3.The Sessions Judge,
Special Court for Trial of Cases
under SC/ST(POA) Act, Vellore.
- 4.The Public Prosecutor,
High Court, Madras.



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M. NIRMAL KUMAR, J.

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**19.12.2022
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