



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Friday, the Eighteenth day of November Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice M.S.RAMESH
and

The Hon`ble Mr.Justice N.ANAND VENKATESH

CRL MP(MD) No.11418 of 2022

in

Crl.A.(MD) No.579 of 2022

1. RAMESH @ SURESH
2. AANDAVAN
3. GUNASEKARAN
4. DHARMAR @ DHARMARAJ

... PETITIONERS/APPELLANTS
ACCUSED NO.1 TO 4

Vs

1. THE DEPUTY SUPERINTENDENT OF POLICE,
THIRPPATHUR,
SIVAGANGAI DISTRICT.

2. THE INSPECTOR OF POLICE,
SINGAMPUNARI POLICE STATION,
SIVAGANGAI DISTRICT.

... RESPONDENTS/RESPONDENTS/
COMPLAINANT

3. RAMU

... RESPONDENT/RESPONDENT/
DEFACTO COMPLAINANT

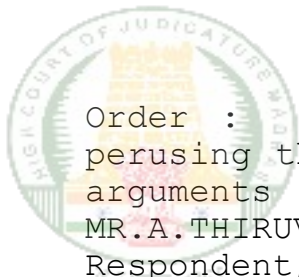
4. PORUTSELVI

... RESPONDENT/RESPONDENT/
VICTIM

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the execution of sentence passed in SC No.143/2009 dated.07/09/2022 on the file of the Hon'ble Special Court for Exclusive Trial of Cases under SC/ST(POD) Act, 1989, Sivagangai and enlarge the petitioners on the bail pending disposal of the above Crl.A.No. Of 2022.

PRAYER in Crl.A.(MD) No.579 of 2022 :

Pleased to admit this appeal and to call for the records relating to Judgment dated 07.09.2022 in S.C.No.143 of 2009 on the file of the Special Court for Exclusive Trial of Cases under SC/ST (POD) Act, 1989, Sivagangai and to set aside the conviction and setence, allow the appeal by acquitting the appellants.



Order : This petition coming up for orders on this day, on perusing the petition filed in support thereof and upon hearing the arguments of M/S.THIRUPATHY.S, Advocate for the petitioner and of MR.A.THIRUVADIKUMAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

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(Order of the Court was made by N.ANAND VENKATESH.J,)

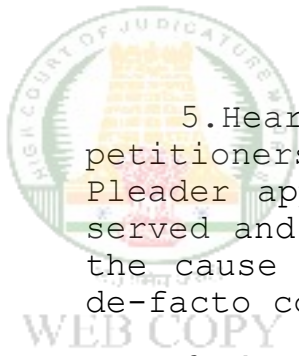
This petition has been filed seeking for suspension of sentence by A1 to A4, who were convicted and sentenced by the Court below in the following manner:

Accused	Offence for which convicted	Sentence
A1 to A4	Section 294(b) IPC	Four weeks Simple Imprisonment and to pay a fine of Rs.200/- and in default to undergo one week simple imprisonment.
	Section 326 IPC r/w 34 IPC r/w Sections 6 and Section 3(2)(V) of SC/ST (PoA) Act, 1989.	Life Imprisonment and to pay a fine of Rs.3,000/- and in default to undergo one year rigorous imprisonment.
A1	Section 323 IPC	Three months simple imprisonment and to pay a fine of Rs.500/- and in default to undergo two weeks simple imprisonment.

2.The case of the prosecution is that there was some dispute in the village between the accused persons and P.W.1 and as a result of this previous enmity, on 16.10.2008 at about 12.00 p.m., the accused persons are said to have gone to the place of the de-facto complainant and abused him in his caste name and attacked the de-facto complainant with iron rod and wooden-log on the head and on the left hand and all over the body of the de-facto complainant. When the wife of the de-facto complainant tried to stop the attack, she is also said to have been attacked by the accused persons. Based on the complaint given by P.W.1, FIR came to be registered in Crime No.253 of 2008.

3.A final report was laid against A1 to A4 and after the charges were framed, the prosecution examined P.W.1 to P.W.15 and marked Ex.P.1 to Ex.P.19 and identified and marked M.O.1 series. The accused persons examined one witness as D.W.1.

4.The Court below, on considering the facts and circumstances of the case and on appreciation of the evidence, came to a conclusion that the offence has been made out and convicted and sentenced the petitioners in the manner stated supra.



5. Heard M/s.S.Thirupathy, learned counsel appearing for the petitioners and Mr.A.Thiruvadikumar, learned Additional Government Pleader appearing for the State. The de-facto complainant has been served and the name of the de-facto complainant was also printed in the cause list and there was no representation on the side of the de-facto complainant.

6. The injury that was sustained by P.W.1 has been spoken to by P.W.12. It is seen from the evidence of P.W.12 that P.W.1 suffered fracture in the ulna and humerus bone. To substantiate the same, Ex.P.8 report was also marked by the prosecution.

7. Considering the facts and circumstances of the case and also the nature of injury that was sustained by P.W.1 and also the fact that the petitioners have already suffered incarceration for more than two months and there are no bad antecedents against them and they have also paid the fine amount, this Court is inclined to suspend the sentence imposed against the petitioners/A1 to A4 by the Court below in S.C.No.143 of 2009 dated 07.09.2022 subject to the following conditions:

- (I) The petitioners shall execute bond for a sum of Rs.25,000/- each, with two sureties each, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Special Court for Exclusive Trial of cases under SC/ST(POD) Act, 1989, Sivagangai.
- (ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity; and
- (iii) The petitioners shall appear before the respondent police every Monday at 10.30 a.m., for a period of 8 weeks. After completion of the period reporting before the respondent police, the petitioners shall report before the Special Court for Exclusive Trial of cases under SC/ST(POD) Act, 1989, Sivagangai, once in fortnight at 10.30 a.m. until the disposal of the appeal and if they are not able to appear before the trial Court on any day, they 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 their absence, as directed by the trial Court.

sd/-

18/11/2022

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/11/2022

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1. THE SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF
CASES UNDER SC/ST(POD) ACT, 1989,
SIVAGANGAI.
2. THE DEPUTY SUPERINTENDENT OF POLICE,
THIRPPATHUR, SIVAGANGAI DISTRICT.
3. THE INSPECTOR OF POLICE,
SINGAMPUNARI POLICE STATION,
SIVAGANGAI DISTRICT.
4. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.S.THIRUPATHY, Advocate (SR-13331[I] dated 21/11/2022)

ORDER

IN

CRL MP(MD) No.11418 of 2022
in

Cr1.A.(MD) No.579 of 2022

Date :18/11/2022

ns

USK/BUC/SAR- /22.11.2022/4P/7C