



Crl.M.P.No.9663 of 2023
in Crl.A.No.345 of 2023

Crl.M.P.No.9663 of 2023
in
Crl.A.No.345 of 2023

M.SUNDAR. J.,
AND
R.SAKTHIVEL. J.,

This order will now dispose of the captioned 'Criminal Miscellaneous Petition' ['Crl.MP' for the sake for brevity, convenience and clarity].

2. This order has to be read in conjunction with and in continuation of earlier proceedings made in the listing on 10.07.2023, which reads as follows:

'Read this in conjunction with and in continuation of earlier proceedings dated 06.07.2023 made in main 'Criminal Appeal No.345 of 2023' ['Crl.A' for the sake of brevity, convenience and clarity] and captioned 'Criminal Miscellaneous Petition No.4489 of 2023 thereat' ['Crl.MP' for the sake of brevity, convenience and clarity] which reads as follows:



WEB COPY



Crl.M.P.No.9663 of 2023
in Crl.A.No.345 of 2023

Crl.A.No.345 of 2023

Crl.A.No.345 of 2023
and
Crl.M.P.No.4489 of 2023
in
Crl.A.No.345 of 2023

M.SUNDAR. J.,
AND
R.SAKTHIVEL. J.,

(Order of the Court was made by M.Sundar.J.)

In the main criminal appeal, conviction and sentences made by learned Principal Sessions Judge at Chennai [hereinafter trial Court for the sake of brevity] in 'Special S.C.No.02 of 2019 vide judgment dated 17.03.2023' (hereinafter 'impugned judgment for the sake of brevity') has been assailed by all the three accused in the trial Court. To be noted, A1, A2 and A3 in the trial Court are petitioners 1, 2 and 3 respectively in this Court. 'A2 and A3 are father and mother respectively' ('parents' collectively) of A1.

2. In and by the impugned judgement,

a) A1 (son) has been sentenced to 10 years RI and Rs.10,000/- fine with three months default imprisonment under Section 376 IPC;

b) A2 (father) has been awarded sentence of one year

256



WEB COPY



Crl.M.P.No.9663 of 2023
in Crl.A.No.345 of 2023

Crl.A.No.345 of 2023

imprisonment and Rs.1000/- fine with one month default.

imprisonment under Section 417 IPC;

c) A3(mother) has been sentenced to 5 years RI and Rs.5000/- fine with two months default imprisonment under Section 306 IPC;

d) Life imprisonment with Rs.5000/- fine and two months default imprisonment, clause in each of the accused i.e., A to A3 under Section 3(2)(v) of The Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (33 of 1989) [hereinafter 'SC/ST (PoA) Act' for the sake of brevity].

3. In the light of the aforementioned sentences, captioned appeal being a continuation of Trial Court's proceeding becomes a proceeding under SC/ST (PoA) Act. This means Section 15-A(5) of SC/ST (PoA) Act comes in. To be noted, victim is defined in Section 2(1)(cc) of SC/ST (PoA) Act.



WEB COPY



Crl.M.P.No.9663 of 2023
in Crl.A.No.345 of 2023

Crl.A.No.345 of 2023

4. In the case on hand, PW2 is the victim and PW1 who is victim's mother is also the *defacto* complainant.

5. The *defacto* complainant (PW1) has been added as third respondent in the captioned appeal by way of a impudant application in Crl.M.P.No.4827 of 2023 which was allowed by this Court on 03.04.2023.

6. Now in the light of reading of Section 35-A(5) read with Section 2(1)(cc) of SC/ST (PoA) Act, it comes to light that it is necessary to add PW3 (victim) also as a respondent and be given a right to be heard. In the event, PW2 has to be added as fourth respondent to the main criminal appeal as well as C.A.M.P which is for suspension of sentence.

7. Mr.M.Sundar Vijay Arul Ram, learned counsel on record requested for time to file a suitable application and bring it on final by Monday. Request recorded.

List on 10.07.2023.

[M.S.L.]

[R.S.Y.J.]

06.07.2023

gpi

ja

(27)



Crl.M.P.No.9663 of 2023
in Crl.A.No.345 of 2023

2. The aforementioned proceedings capture all essential

facts.

3. Suffice to say that captioned Crl.MP No.9663 of 2023 has been taken out with a prayer to implead the victim as fourth respondent.

4. Issue notice. Mr.A.Gokulakrishnan, learned Additional Public Prosecutor accepts notice for respondent Nos.1 and 2. Mr.R.Muthukrishnan, Advocate (Enrolment No.MS.2729/2014) with address for service at No.456, New Additional Law Chambers, Madras High Court Campus, Chennai – 600 104, who is already on record for the third respondent (defacto complainant) in the main Crl.A accepts notice for the third respondent, same counsel i.e., Mr.R.Muthukrishnan accepts notice for the fourth respondent also.

5. Learned counsel who has accepted notice for fourth respondent requests for a short accommodation to get instructions and revert to this Court. Request acceded to.

6. List on Thursday. List on 13.07.2023. '

3. The aforesaid proceedings made in 10.07.2023 listing is telltale qua the trajectory the matter has taken before this Court and it also captures all essentials that are imperative for appreciating this order and therefore. we are not setting out those details again in this order made today.



Crl.M.P.No.9663 of 2023
in Crl.A.No.345 of 2023

WEB COPY

4. Today, Mr.R.C.Paul Kanagaraj, learned counsel appearing for the petitioner in captioned Crl.MP, Mr.R.Murthukrishnan, learned counsel who has accepted notice for the fourth respondent and who is already representing the third respondent, Mr.A.Gokulakrishnan, learned State Additional Public Prosecutor for Respondents 1 and 2 are before us. In the light of sub-section (3) of Section 15A of 'Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989' [hereinafter 'SC/ST (PoA) Act' for the sake of brevity], learned Additional Public Prosecutor as well as Mr.R.Muthukrishnan submit that they are not opposing the implead prayer in the captioned Crl.MP.

In the light of the narrative thus far, captioned Crl.M.P. is allowed and the implead prayer is acceded to. Registry to carry out necessary and consequential amendments forthwith.

(M.S.,J.) (R.S.V.,J.)
31.08.2023
(½)

gpa



WEB COPY



Crl.M.P.No.9663 of 2023
in Crl.A.No.345 of 2023

M.SUNDAR. J.,
AND
R.SAKTHIVEL. J.,

gpa

Crl.M.P.No.9663 of 2023
in
Crl.A.No.345 of 2023

31.08.2023