



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

Tuesday, the Thirty First day of January Two Thousand and
Twenty Three

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PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.701 of 2023
IN
CRL A(MD) No.54 of 2023

MOHAMED ABIWAKAS

... PETITIONER/APPELLANT

Vs

1 THE STATE REP.BY,
THE DEPUTY SUPERINTENDENT OF POLICE,
UTHAMAPALAYAM SUB DIVISION,
THENI DISTRICT.

2 THE STATE REP.BY,
THE INSPECTOR OF POLICE
CUMBUM NORTH POLICE STATION,
THENI DISTRICT.
(CRIME NO.176/2021).

3 VEERAMANI

4 SATHISH KUMAR

... RESPONDENTS/RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to pass an order of suspend the sentence, to suspend the sentence imposed on the petitioner vide Judgement dt.27/12/2022 made in Spl.SC.No.14/2022 on the file of the learned Special Court for the Trial of Cases under the SC/ST (POA), Theni, (FAC) pending disposal of the above criminal appeal and thus render justice. The petitioner is not in jail and he had paid the fine amount of Rs.5000/- (Five Thousand Rupees) imposed by the Special Court for the Trial under the SC/ST(POA) Theni, (FAC).

PRAYER IN CRL A(MD) No.54 of 2023:

To call for records and set aside the judgment and conviction passed by the learned Special Court for the Trial of Cases under the SC/ST (POA) Theni, (FAC) in Spl.S.C.No.14 of 2022 dated 27.12.2022 and acquit the appellant herein.



Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.JEYAKARTHIK M S, Advocate for the petitioner and of M/S.B.NAMBISELVAN, Additional Public Prosecutor on behalf of the Respondent Nos.1 & 2 and MR.SURESH KANNAN, Legal Aid Counsel on behalf of the Respondent Nos.3 & 4, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned Special Court for the Trial of Cases under the SC/ST (PoA) Act, Theni (FAC), dated 27.12.2022 in Spl.S.C.No.14 of 2022.

2.The learned counsel for the petitioner submitted that the petitioner has been convicted by the learned Special Judge, for the alleged offence under Section 3(1)(s) of SC/ST (PoA) Act and sentenced him to undergo two years Rigorous Imprisonment and to pay a fine of Rs.5,000/- in default to undergo Simple Imprisonment for a period of three months.

3. The case of the prosecution is that on 10.05.2021, at about 7.45 p.m., when the defacto complainant was walking near Pattalamman Kovil, Cumbum Mettu, A1 had scolded him to let loose his thothy up to the ankle and both the accused with a prior motive had scolded the defacto complainant with filthy language and abused him with caste name and accused A1 had assaulted him with brick and when questioned by one Sathishkumar, the accused A1 had assaulted him with brick and both the accused had threatened with criminal intimidation on the witness.

4. The learned Additional Public Prosecutor would submit that so far as this petitioner is concerned, even as per the case of the prosecution, no assault has been made against the defacto complainant/3rd respondent herein by this petitioner. Only the co-accused has made assault against the defacto complainant. He would further submit that the first accused is in juvenile prison. The matter is pending before the Juvenile Justice Board, Tirunelveli, and no application has been filed by the first accused before this Court.

5. Having regard to the fact that there are arguable points involved in the appeal and further, the appeal is not likely to be taken up for final hearing in the near future and also considering the submission of the learned Additional Public Prosecutor, the suspension of sentence petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a



CRL MP(MD)



23

Trial of Cases under the SC/ST (PoA) Act, Theni (FAC), on further condition that the petitioner shall appear before the said Court once in a week at 10.30 a.m. pending appeal

sd/-

31/01/2023

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01/02/2023

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

INDU

TO

1 THE SESSIONS JUDGE,
THE SPECIAL COURT FOR THE TRIAL OF CASES UNDER THE SC/ST (POA)
THENI, (FAC)

2 THE DEPUTY SUPERINTENDENT OF POLICE,
UTHAMAPALAYAM SUB DIVISION, THENI DISTRICT.

3 THE INSPECTOR OF POLICE
CUMBUM NORTH POLICE STATION, THENI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.JEYAKARTHIK M S Advocate SR.No.1464

ORDER

IN

CRL MP(MD) No.701 of 2023

Date :31/01/2023

SA/BUC/SAR. /01.02.2023/3P/6C