



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

Monday, the Seventeenth day of April Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL.M.P. (MD) No.3491 of 2023
in
CRL.A. (MD) No.154 of 2023

1 SEETHAPATHI
2 SANTHOSH
3 SURYA
4 MANIKANDAN

... PETITIONER/APPELLANTS

Vs

1 THE STATE REP. BY
THE DEPUTY SUPERINTENDENT OF POLICE,
MUTHUPETTAI SUB DIVISION,
PERUGAVAZHNTHAN POLICE STATION,
THIRUVARUR DISTRICT.
(CRIME NO.78/2019).

2 KALIYAMOORTHY

... RESPONDENT/RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed by the learned 1st Addl.District and Sessions Judge(PCR) Thanjavur dt.25/1/2023 made in SSC No.18/2020 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

PRAYER IN CRL.A. (MD) No.154 of 2023:-

To call for the records and set aside the judgement and conviction passed by the learned first Additional District and Sessions Judge(PCR) Thanjavur made in S.S.C.No.18/2020 dated 25.01.2023 and allow the above Criminal appeal.

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.JAMEEL ARASU B, Advocate for the petitioner and of M/S.SS.MADHAVAN, Government Advocate (Crl.Side) on behalf of the Respondent No.1, the court made the following order:-



Reserved on : 28.03.2023

Delivered on : 17.04.2023

This petition has been filed to suspend the sentence imposed on the petitioner in Spl.S.C.No.18 of 2020 on the file of the I Additional District and Sessions Judge (PCR), Thanjavur, dated 25.01.2023, and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

2. The case of the prosecution is that the accused 1 to 4 and a juvenile accused by name Abimanyu belong to Hindu Vellalar community and the defacto complainant Kaliyamoorthy belongs to Hindu parayan community and that there existed previous enmity between Kaliyamoorthy and the accused 1 to 4; that on 04.06.2019 at about 04.00 pm in the funeral procession of one Nagalingam Pillai, who belongs to vellalar community, the accused were dancing; that the accused had seen that P.W.1 Kaliyamoorthy was standing on the way; that the accused 1 and 2 scolded him in abusive words using caste name; that the second accused kicked him with legs; that the accused 3 and 4 also kicked P.W.1 and pushed him down and that on the basis of the complaint lodged by the said Kaliyamoorthy, FIR came to be registered in Crime No.78 of 2019 on the file of the Perugavazhathan Police Station for the offences under Sections 147, 294(b), 352 IPC and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of SC/ST (POA) Act.

3. The respondent police, after completing the investigation, has filed the final report and the same was taken on file in Spl.C.C.No.18 of 2020 on the file of the I Additional District and Sessions Judge (PCR), Thanjavur.

4. During trial, the prosecution has examined 12 witnesses as P.W.1 to P.W.12 and exhibited 20 documents as Ex.P.1 to Ex.P.20. The accused has adduced neither oral nor documentary evidence.

5. The learned trial Judge, upon considering the evidence adduced and on hearing the arguments of both the sides, has passed the impugned judgment, dated 25.01.2023, finding the accused 1 to 4 guilty for the offences under Section 147 IPC r/w Section 3(2)(va) of SC/ST (POA) Act and sentenced them to undergo two years simple imprisonment and fine of Rs.5,000/- each, in default to undergo three months simple imprisonment; that the accused 1 and 2 guilty for the offence under Section 294(b) IPC r/w Section 3(1)(r)(s) SC/ST (POA) Act and sentenced them to undergo 4 years rigorous imprisonment and to pay a fine of Rs.5,000/- each, in default to undergo one year simple imprisonment and finding the accused 2 to 4 guilty for the offence under Section 352 IPC and sentenced them to undergo three months simple imprisonment and to pay a fine of Rs.500/- each, in default to undergo 15 days simple imprisonment. Aggrieved by the said judgment of conviction and sentence, the accused have preferred the present Criminal Appeal along with the



6. The learned counsel appearing for the petitioners would submit that there is absolutely no evidence to show that there existed any motive or enmity between the accused and the defacto complainant; that the occurrence witnesses have not deposed that they have seen the alleged occurrence; though P.W.2 has not stated anything in his evidence as to who were all the accused involved in the alleged occurrence and who had attacked the defacto complainant and with what weapons, that the offences under SC/ST (POA) Act are not at all applicable to the case on hand and that the above said offences were invented for harassing and disrupting the appellants in the society.

7. The learned Government Advocate (Criminal Side) appearing for the State would submit that all the accused had abused the defacto complainant in filthy language using caste name and that they have attacked and kicked him and that the trial Court has rightly considered the oral and documentary evidence and has come to the decision that the charges framed against the accused stand proved. He would further submit that the petitioners are not having any other previous cases.

8. It is not in dispute that the petitioners are in custody from the date of judgment i.e., on 25.01.2023.

9. Considering the facts and circumstances of the case and also taking note of the charged allegedly proved against the petitioners/accused and the punishment imposed and also the fact that the petitioners are not having any other previous cases pending against them and the period of incarceration, this Court is inclined to suspend the sentence.

10. Accordingly, the relief of suspension of sentence and bail is granted to the petitioners on the following conditions:-

(i) the petitioners are directed to execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties, each for a like sum to the satisfaction of the learned I Additional District and Sessions Judge (PCR), Thanjavur;

(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of any valid identity proof to ensure their identity ;

(iii) The petitioners shall appear before the trial Court daily at 10.30 am., for a period of one month and thereafter, they shall appear before the trial Court once in a month i.e., on the first working day of every English calendar month at 10.30 a.m., until further orders 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 of 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.

sd/-
17/04/2023

/ TRUE COPY /

WEB COPY

17/04/2023

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

DAS

TO

1 1ST ADDL.DISTRICT AND SESSIONS JUDGE (PCR) THANJAVUR.

2 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.

3 THE DEPUTY SUPERINTENDENT OF POLICE,
MUTHUPETTAI SUB DIVISION,
PERUGAVAZHNTHAN POLICE STATION,
THIRUVARUR DISTRICT.

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

+1 CC to M/s.B.JAMEEL ARASU, Advocate (SR-5943[I] dated
17/04/2023)

ORDER
IN
CRL MP (MD) No.3491 of 2023
IN
CRL A (MD) No.154 of 2023
Date :17/04/2023

NA/VR/SAR- /17.04.2023/4P/6C