



CRL MP(MD) No.10042 of 2023

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

Friday, the Twenty Eighth day of July Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

Crl.M.P.(MD).No.10042 of 2023

in

Crl.A.(MD).No.546 of 2023

VIJAYALAKSHMI

... PETITIONER/ APPELLANT

Vs

1 THE STATE REP.BY,
THE DEPUTY SUPERINTENDENT OF POLICE,
SIVAGANGAI TOWN POLICE STATION,
SIVAGANGAI
SIVAGANGAI DISTRICT
CRIME NO.593 OF 2012

...COMPLAINANT/RESPONDENT

2 SETHU

... RESPONDENT/
DEFACTO COMPLAINANT

Prayer in Crl.M.P.(MD).No.10042 of 2023

Criminal Miscellaneous 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 of Rigorous Imprisonment for One Year term imposed by the learned Special Judge for the Exclusive Trial of cases under SC/ST(POA) Act 1989, Sivagangai,Sivagangai District in SC.No.24 of 2018 by the judgment dated on 28.06.2023 and enlarge the petitioner/ appellant on bail pending disposal of the above said Criminal Appeal.



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Prayer in CRL A(MD). 546/ 2023 :

To call for the records and set aside the order of conviction and sentence passed in S.C.No.24 of 2018 dated 28.06.2023 by the Learned Special Court for the Exclusive trial of Cases under SC/ST(POA) Act, 1989, Sivaganagai, Sivagangai District and allow this appeal and acquit the Appellant/ Accused from the charges leveled against her.

Order : This Criminal Miscellaneous Petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S. KUMAR.T, Advocate for the petitioner and of M/S.M.MUTHUMANIKKAM, Counsel for Government of TamilNadu(Crl.side) on behalf of the Respondent No.1, the court made the following order:-

This petition has been filed to suspend the sentence imposed on the petitioner by the learned Special Judge for Exclusive Trial of Cases under SC/ST (POA) Act, Sivaganagai in Spl.S.C.No.24 of 2018 dated 28.06.2023.

2. The defacto complainant's elder son Ramkumar is working as an Engineer in the shipping industry and his marriage was proposed to be held on 29.01.2012. When the defacto complainant attempted to lay the wedding pavilion, in front of his house on 28.01.2012 at 07.30 a.m, the petitioner and his wife said to have assaulted the defacto complainant by abusing his caste name. Therefore, he lodged a complaint before the respondent police and the same was registered in Crime No.593 of 2012 on the file of the respondent police for the offences under Sections 506(i) IPC r/w 3(1)(x) of SC/ST (POA) Act 2015 against the petitioner/accused No.1 and for the offence



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under Sections 323, 506(i) IPC against the second accused.

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3. The respondent police, after completing the investigation, has laid a final report for the offences under Sections 506(i) IPC r/w 3(1)(x) of SC/ST (POA) Act 2015 against the petitioner/accused No.1 and for the offence under Sections 323 and 506(i) IPC against the second accused, on the file of the learned Special Judge for Exclusive Trial of Cases under SC/ST (POA) Act, Sivaganagai. The same was taken on file in Spl.C.C.No.24 of 2018. Trial was conducted, after complying the procedure stated in the Cr.P.C.

4. During trial, the prosecution has examined eight witnesses, viz., P.W.1 to P.W.8 and exhibited 11 documents [Ex.P.1 to Ex.P.11]. However, neither a witness was examined nor a document was exhibited on the side of the accused.

5. The learned Special Judge for Exclusive Trial of Cases under SC/ST (POA) Act, 1989, Sivaganagai, after full-fledged trial, has passed the judgment in Spl.S.C.No.24 of 2018, dated 28.06.2023 and convicted the petitioner/accused No.1 for the offence under Section 3(1)(x) of SC/ST (POA) Act 2015 and sentenced him to undergo one year Rigorous Imprisonment and to pay a fine of Rs.5000/- (Five

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Thousand Rupees), in default, to undergo 3 months Rigorous Imprisonment.

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Aggrieved over the above said conviction and sentence, imposed by the Court below, the petitioner preferred the present Criminal Appeal along with the present Miscellaneous Petition seeking for suspension of sentence.

6. The learned counsel for the petitioner would submit that there are several infirmities in the prosecution case. Further he would submit that many of the witnesses turned hostile and the alleged evidence of eye witnesses itself is not trustworthy. The trial Court already suspended the sentence for a period of one month against the petitioner. Hence, he seeks suspension of sentence.

7. The learned Additional Public Prosecutor appearing for the respondent would submit that there are enough materials available on record against the petitioners and hence, he strongly opposed this petition.

8. Even though, defacto complainant served with notice, he did not appear either in person or through the counsel.

9. This Court considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on record.



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10. The petitioner is said to have committed the offence under Section 3(1)(x) of SC/ST (POA) Act 2015 of IPC. It is the specific case of the petitioner that number of witnesses turned hostile and the alleged eye witness itself is not trustworthy. The petitioner is aged about 75 years and she is a heart patient and unable to walk due to leg pain and there is no bad antecedents against the accused. Hence, this Court prima facie satisfied that there are arguable points involved in this Criminal Revision and further the criminal revision is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner is entitled to the relief of grant of suspension of sentence.

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

(i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learend Special Judge for Exclusive Trial of Cases under SC/ST (POA) Act, 1989, Sivaganagai.

(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



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Pass Book to ensure their identity; and

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(iii) The petitioner shall appear before the concerned Court once in a month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the appeal.

sd/-

28/07/2023

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/08/2023

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

sbn

TO

1.THE SPECIAL JUDGE FOR EXCLUSIVE TRIAL OF CASES UNDER SC/ST (POA) ACT, 1989, SIVAGANAGAI.

2. THE DEPUTY SUPERINTENDENT OF POLICE,
SIVAGANGAI TOWN POLICE STATION,
SIVAGANGAI SIVAGANGAI DISTRICT

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

+1. C.C. to M/S.R.BALAMURUGANANTHAM, Advocate SR.No.11448

ORDER IN
CrI.M.P.(MD).No.10042 of 2023
inCrI.A.(MD).No.546 of 2023
Date :28/07/2023

RK/VR (01/08/2023) 6P / 5C

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