



CRL MP(MD) No.16491 of 2023

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

Friday, the Twenty Second day of December Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.16491 of 2023

in

CRL A(MD)No. 1029 of 2023

CHITHIRAIKANI @ THANGAM

... PETITIONER/ APPELLANT

/ACCUSED NO.1

Vs

**1 THE DEPUTY SUPERINTENDENT OF POLICE,
SRIVILLIPUTHOOR SUB DIVISION,
SRIVILLIPUTHOOR TOWN POLICE STATION,
VIRUDHUNAGAR DISTRICT.**

(CRIME NO.348 OF 2011)

...RESPONDENT/RESPONDENT

/COMPLAINANT

2 ARUMUGAM

...2nd RESPONDENT

**(R2 IS IMPEADED AS PER ORDER OF THE
COURT DT.05.12.2023 IN CRL.MP (MD)
1717143/2023 IN CRL A(MD)No. 1029 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 imposed on the petitioner/Appellant/Accused No.1 namely Chithiraikani @ Thangam, S/o.Seenisamy, passed by the Learned Special Court for Exclusive Trial of Cases under SC/ST(POA) Act, Virudhunagar District at

<https://www.mhc.tn.gov.in/judis>



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Srivilliputhoor in Spl.S.C.No.41 OF 2011 DATED 26.10.2023 and enlarge the petitioner on bail, pending disposal of the Criminal Appeal.

PRAYER IN CRL A(MD)No. 1029 of 2023:

Pleased to call for the records of the impugned judgment made in Spl.S.C.No. 41 of 2011 on the file of the Learned Special Court for Exclusive Trial Cases under SC/ST (POA) Act, Virudhunagar District at Srivilliputhoor dated 26.10.2023 and set aside the same.

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 MR.M.JEGADEESH PANDIAN, Advocate for the petitioner and of MR.B.NAMBISELVAN, Advocate on behalf of the 1st Respondent and the 2nd Respondent not appearing either in person or by an advocate, the court made the following order:-

Reserved on : 08.12.2023

Pronounced on : 22.12.2023

The petitioner has filed this petition to suspend the sentence imposed against him by the Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, Virudhunagar District at Srivilliputhoor in Spl.S.C.No.41 of 2011, dated 26.10.2023 and enlarge him on bail pending disposal of the Criminal Appeal.

2. The case of the prosecution is that due to previous enmity between the petitioner and the defacto complainant on 26.06.2011, the petitioner herein along with two accused abused the defacto complainant by using filthy language and mentioning his caste name and the petitioner/Accused No.1 assaulted the defacto complainant by using Aruval and also threatened him with dire consequences.

Based on the complaint, F.I.R. was registered in Crime No.348 of 2011 for the offence

under Sections 294(b), 326 and 506(ii) of IPC and Section 3 (1) (x) of SC/ST (POA)

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Act. After completion of investigation, final report was filed before the learned Judicial Magistrate No.II, Srivilliputhoor and the same was taken on file as PRC.No.33 of 2011 and after committal the same was taken on file as Special S.C.No.41 of 2011 on the file of the Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, Virudhunagar District at Srivilliputhoor.

3. To prove the charge, the prosecution examined 12 witnesses as P.W.1 to P.W.12 and marked 10 exhibits as Ex.P1 to Ex.P10 and 1 MO marked as M.O.1. On the defence side, no witness was examined and no exhibit was marked.

4. The learned Trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the impugned judgment dated 26.10.2023 convicting the petitioner/Accused No.1 for the offence under Sections 326 and 506 (ii) of IPC and sentenced him to undergo rigorous imprisonment for a period of 4 years and to pay a fine of Rs.2,000/-, in default, to undergo rigorous imprisonment for a period of 6 months for the offence under Section 326 of IPC and for the offence under Section 506 (ii) of IPC sentenced him to undergo rigorous imprisonment for a period of 3 years and to pay a fine of Rs.1,000/-, in default, to undergo rigorous imprisonment for a period of 3 months and acquitted all the accused for the offence under Section 3 (1) (X) of SC/ST (POA) Act.

Challenging the above said conviction and sentence, the petitioner/Accused No.1

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preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

5. The learned counsel for the petitioner would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He would further submit that the petitioner is aged about 63 years and no previous case is pending against him and also ready to abide by any condition imposed by this Court. Hence, he prayed to suspend the sentence imposed on the petitioner.

6. The learned Additional Public Prosecutor appearing for the respondent would submit that the learned trial Judge, upon considering all the evidence on records, has rightly convicted the petitioner. He would further submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

7. Even after receipt of notice, the second respondent/defacto complainant did not appear.

8. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

9. The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The



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fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal 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 herein is entitled to the relief of grant of suspension of sentence.

10. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal on the following conditions:-

(i) The petitioner/Accused No.1 is directed to be enlarged on bail on condition that the petitioner/Accused No.1 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 Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, Virudhunagar District at Srivilliputhoor;

(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



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(iii) The petitioner/Accused No.1 shall appear before the trial Court 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.

sd/-
22/12/2023

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22/12/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

VSD

TO

1 THE SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER SC/ST (POA) ACT, VIRUDHUNAGAR
DISTRICT AT SRIVILLIPUTHUR.

2 THE DEPUTY SUPERINTENDENT OF POLICE,
SRIVILLIPUTHOOR SUB DIVISION,
SRIVILLIPUTHOOR TOWN POLICE STATION,
VIRUDHUNAGAR DISTRICT.

3 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.

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



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+1 CC to M/s.M.JEGADEESH PANDIAN, Advocate (SR-18336[I] dated 22/12/2023)

ORDER
IN
CRL MP(MD) No.16491 of 2023
in
CRL A(MD)No. 1029 of 2023
Date :22/12/2023

PKP/22.12.2023/ 7P/ 6C

Madurai Bench of Madras High Court is issuing certified
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