



WEB COPY



*Crl.M.P.No.12355 of 2024
in Crl.A.No.1111 of 2024*

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Crl.A.No.1111 of 2024

M. NIRMAL KUMAR, J.

This Criminal Miscellaneous Petition has been filed by the petitioner, seeking to suspend the sentence imposed in Special Sessions Case No.18 of 2023 by an order dated 12.08.2024 passed by the Sessions Judge, Special Court for Exclusive Trial of Cases registered under SC/ST (POA) Act, Villupuram and enlarge the petitioner on bail pending disposal of the present Criminal Appeal.

2.The petitioner/accused in Spl.S.C.No.18 of 2023 was convicted by the trial Court by judgment dated 12.08.2024 for offence under Sections 3(1)(r) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act (in short 'SC/ST (POA) Act') and sentenced to undergo one year simple imprisonment and to pay fine of Rs.500/-, in default to undergo three months simple imprisonment. Aggrieved against the conviction, he preferred an appeal before this Court in Crl.A.No.1111 of 2024 along with the instant miscellaneous petition seeking suspension of sentence and bail.



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3. Notice sent to the second respondent/de-facto complainant/victim served. The learned Additional Public Prosecutor informed that the victim/de-facto complainant was served with notice informing about the pendency of the above appeal and suspension of sentence petition. The second respondent name is also printed in the cause list. Despite, proper notice has been served, there is no representation for the second respondent either in person or through counsel. It is to be taken that the respondent has got no serious objection.

4. During trial, on the side of the prosecution, PW1 to PW12 examined, Exs.P1 to P8 marked. On the side of the defence, no witnesses examined and Exs.D1 to D3 marked. On conclusion of the trial, the Trial Court on the evidence of witnesses and the materials produced, had convicted the petitioner as stated above.

5. The contention of the petitioner is that the petitioner asked for Adangal from the Village Assistant of Sethavarai village. Munusamy/PW2 refused to give the Adangal informing that in the petitioner's property there was thorny shrubs, hence Adangal could not be given. On 21.09.2021, the



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petitioner lodged a complaint with the Tahsildar, Gingee against Munusamy/PW2 that he demanded Rs.3,000/- and the de-facto complaint/PW1, who is the Village Administrative Officer demanded Rs.2,000/- for giving Adangal. PW6/Revenue Inspector conducted enquiry and sent a report to the Zonal Deputy Tahsildar. It is projected that petitioner was giving torture to the VAO/PW1 and Village Assistant/PW2. Hence, PW1 and PW2 took transfer to Pakkam village. During June Jamapanthi, the petitioner is said to have called both PW1 and PW2 by their caste name, i.e., on 07.09.2022 in the Tahsildar office and thereafter complaint lodged.

6.The further contention of the petitioner is that PW1 and PW2 both demanded bribe from the petitioner, which the petitioner refused to give and lodged a complaint. Hence, to wreak vengeance false complaint projected against him that too on the day of Jamapanthi. On that day the villagers gone to the Tahsildar office to address their grievance but no public witness examined and all the witnesses examined are from the Tahsildar office, who are colleagues of the de-facto complainant. Further, the petitioner marked Ex.D1/Adangal of the year 2019, Ex.D2/Photograph & Ex.D3/complaint letter given by the petitioner against PW1 and PW2. From the Adangal and



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Photograph it is seen that petitioner's field is with Well, Pumpset and cultivated regularly. Only for the purpose of demanding bribe it is contended by PW1 and PW2 that the field is with thorny shrubs. The trial Court failed to consider these aspects and not discussed anything with regard to Exs.D1 to D3. Hence, prays for granting suspension of sentence to the petitioner.

7.The learned Additional Public Prosecutor on the other hand submitted that the petitioner was causing harassment and threat to PW1 and PW2 by forcing them to issue Adangal to his property for the purpose of availing Government benefits, which was left with thorny shrubs and not cultivated. Revenue officers on making visit to the field finding that it is a thorny shrubs refused to issue Adangal. Further, the petitioner was abusing them and following the victims/PW1 and PW2 in all places and calling by their caste name and showing force. Unable to withstand harassment, PW1 and PW2 took transfer and now posted in different village. Not stopping with the harassment, on the date of Jamapanthi, when PW1 and PW2 were in Tahsildar Office, the petitioner used abusive language which was witnessed by their colleagues and others present in the Tahsildar office, who all confirmed petitioner using abusive words by calling PW1 and PW2 by their



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caste name. PW11 is the Sub Inspector of Police, who received complaint, PW12 is Deputy Superintendent of Police, who conducted investigation, examined witnesses. Before the trial Court PW1 to PW12 examined and Exs.P1 to P8 marked. On the side of the defence, Exs.D1 to D3 marked. The trial Court on the evidence and materials produced had rightly convicted the petitioner. Hence, prays for dismissal of the petition.

8.Considering the submissions made and on perusal of the materials available on record, it is seen that petitioner was convicted by the trial Court and sentenced to undergo one year simple imprisonment. The trial Court had already suspended the sentence of the petitioner. It is also to be seen that prior to the incident on 07.09.2022, the petitioner obtained Adangal/Ex.D1 in the year 2019, wherein it is crop cultivation. Further, in the photograph, the field is with Well, pumpset and there is no material produced by the prosecution to show that in the year 2022, the field was with thorny shrubs. Added to it, the incident is said to have taken place on 07.09.2022 but the complaint lodged on 09.09.2022. There is a delay but no reason given. There was prior enmity between the petitioner and PW1 and PW2. The defence evidence Exs.D1 to D3 not being considered. In view of the same, this Court finds that the conviction of the petitioner needs re-consideration. Hence, this



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Court is inclined to grant suspension of sentence to the petitioner.

9.In view of the above, the substantive sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the appeal and the petitioner is ordered to be enlarged on bail, on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties, each for a like sum to the satisfaction of the trial Court.

10.Further, the petitioner shall appear before the Trial Court once in three months at 10.30 a.m. on the first working day of the month, until the disposal of the criminal appeal and if he is not able to appear before the Trial Court on that day, he shall make arrangements to file an application under Section 317 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.



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WEB COPY11. Accordingly, this Criminal Miscellaneous Petition is ordered.

04.10.2024

Index : Yes/No
Internet : Yes/No
Speaking order/Non speaking order
Neutral citation : Yes/No
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To

- 1.The Deputy Superintendent of Police,
Gingee Sub Division.
- 2.The Sessions Judge,
Special Court for Exclusive Trial of Cases
registered under SC/ST (POA) Act,
Villupuram.
- 3.The Public Prosecutor,
High Court, Madras.



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