



CRL.M.P.(MD)No.12431 of 2024

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

Wednesday, the Twentieth day of November Two Thousand and Twenty Four

PRESENT

The HONOURABLE MR. JUSTICE K.K. RAMAKRISHNAN

CRL.M.P.(MD)No.12431 of 2024

in

CRL.A.(MD)No.1006 of 2024

GAVASHKAR

... PETITIONER/PETITIONER

Vs

THE STATE OF TAMIL NADU
THE DEPUTY SUPERINTENDENT OF POLICE,
ANDIPATTI SUB DIVISION,
G.VILAKKU POLICE STATION,
THENI DISTRICT.
CRIME NO.234/2019.

... 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 of Imprisonment imposed by the Learned Special Court, for Trial of Cases under SC/ST (POA) Act, Theni in Spl SC No.179/2020 by the judgment dt.08.11.2024 and enlarge the petitioner /Appellant on bail, pending disposal of the above said Criminal Appeal.

Prayer in CRL.A.(MD)No.1006 of 2024:

To set aside the Judgment and Conviction dated 08.11.2024 by the Learned Special Court for Trial of Cases under SC/ST(POA) Act, Theni in Spl.S.C.No.179 of 2020 and acquit the Appellant and thus render justice.



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Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.M.KARUPPASAMY PANDIAN, Advocate for the petitioner and of MR.M.SAKTHI KUMAR, Government Advocate(Crl.side) on behalf of the Respondent the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed in Spl.S.C.No.179 of 2020, dated 08.11.2024, by the Learned Special Court, for Trial of cases under SC/ST (POA) Act, Theni, and enlarge the petitioner on bail till the disposal of this Criminal Appeal.

2.The case of the prosecution is that during the festival time, on 30.10.2019, at 05.30 p.m., when the defacto complainant went to the street of the accused and was standing nearby Kaliyamman temple and watching the festival programme, at that time, the accused asked him why he had come to his village and also abused him in filthy language and also insulted him by using his caste name in the presence of the other persons worshipping there and also threatened him by stating that he will kill the defacto complainant by cutting his neck. Hence, the defacto complainant lodged a complaint before the respondent Police.

3.On receipt of the complaint, the respondent Police registered a case in Crime No.234 of 2019 for the offence under Sections 294(b) and 506(i) of IPC and Sections 3



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(1)(r)(s) and 3(2)(va) of SC/ST (POA) Act, amendment Act, 2015 against the petitioner. The respondent Police, after completing the investigation, has filed the final report and the same was taken on file in Spl.S.C.No.33 of 2019, by the learned Principal District and Sessions Judge, Theni. Thereafter, the case was transferred from the Principal District and Sessions Court, Theni, on 30.01.2020, to the learned Special Court for Trial of Cases under SC/ST (POA) Act, Theni. The learned Special Court for Trial of Cases under SC/ST (POA) Act, Theni, has taken the case in Spl.S.C.No.179 of 2020.

4.During the trial, the prosecution has examined 13 witnesses as P.W.1 to P.W.13 and exhibited 8 documents as Ex.P.1 to Ex.P.8. On the side of the defence, neither a witness was examined nor a document was exhibited.

5.The learned Special Court for Trial of Cases under SC/ST (POA) Act, Theni, after full-fledged trial has passed the judgment in Spl.S.C.No.179 of 2020, dated 08.11.2024, and convicted the petitioner/accused for the offence under Section 294(b) of IPC and sentenced to pay a fine of Rs.500/- in default to undergo one month simple imprisonment and convicted the petitioner for the offence under Section 506(i) of IPC r/w 3(2)(va) of SC/ST (POA) Amendment Act, 2015, and sentenced to pay a



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fine of Rs.500/- in default to undergo one month simple imprisonment and for the offence under Section 3(1)(r) of SC/ST (POA) Act, 1989, sentenced to undergo simple imprisonment for six months and to pay a fine of Rs.500/- in default to undergo one month simple imprisonment and for the offence under Section 3(1)(s) of SC/ST (POA) Act, 1989, sentenced to undergo six months simple imprisonment and to pay a fine of Rs.500/- in default to undergo one month simple imprisonment. Aggrieved over the above said conviction and sentence, imposed by the trial Court, 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 submitted that there are several infirmities in the prosecution case. He further submitted that the trial Court already suspended the sentence for a period of one month from 08.11.2024. Hence, he seeks suspension of sentence.

7.The learned Government Advocate (Crl. Side) appearing for the respondent Police submitted that there are enough materials available on record against the petitioner and hence, he strongly opposed this petition.



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8.This Court considered the rival submission made by the learned counsel appearing on either side and perused the materials available on records.

9.Considering the facts and circumstances of the case and also considering the fact that the sentence imposed on the petitioner was suspended by the trial Court for a period of one month and there was no antecedent against the petitioner and there are some arguable points involved in the criminal appeal, the petitioner is entitled to the relief of grant of suspension of sentence.

10.Accordingly, the relief of suspension of sentence is granted to the petitioner 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 Learned Special Court, for Trial of cases under SC/ST (POA) Act, Theni,;

(ii)The sureties shall affix his photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of his Aadhar card or Bank Pass Book to ensure their identity; and



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(iii) The petitioner 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., till the disposal of the appeal.

sd/-
20/11/2024

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/11/2024

Sub-Assistant Registrar (CS-I / II /III/ IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

GSV

TO

1.THE JUDGE,
SPECIAL COURT, FOR TRIAL OF CASES UNDER SC/ST (POA) ACT, THENI,;

2.THE DEPUTY SUPERINTENDENT OF POLICE,
ANDIPATTI SUB DIVISION,
G.VILAKKU POLICE STATION, THENI DISTRICT.

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

+1 CC to M/s.M.KARUPPASAMY PANDIAN, Advocate (SR-14272[I] dated 20/11/2024)

ORDER
IN
CRL.M.P.(MD)No.12431 of 2024
in
CRL.A.(MD)No.1006 of 2024
Date :20/11/2024



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