

Petitioner Vs. Respondent

Petitioner Vs. Respondent

SooperKanoon Citation : sooperkanoon.com/1185700

Court : Chennai

Decided On : Feb-23-2017

Judge : M. Venugopal

Appeal No. : Crl.M.P. No. 906 of 2017 in Crl.A. No. 40 of 2017

Appellant : Petitioner

Respondent : Respondent

Judgement :

M. Venugopal, J.

1. Heard both sides.

2. The Petitioner/Appellant/A1 has focussed the instant Criminal Appeal before this Court as against the Judgment dated 09.12.2016 in Spl.S.C.No.160 of 2015 passed by the Special Judge, Special Court for Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Principal Sessions Court, Erode.

3. Earlier, the trial Court found the Petitioner/Appellant/A1 guilty in respect of an offence under Section 307 I.P.C. and imposed a punishment of Rigorous Imprisonment for a period of seven years, besides imposing a fine of Rs.5,000/-, in default of payment of fine, he was directed to further undergo six months Simple Imprisonment. In so far as the offences under Section 447 I.P.C. read with 3(2)(va)

of SC/ST (POA) Amendment Ordinance, 2014, Section 427 IPC; and 3(1)(x) of SC/ST Act, 1989, the Petitioner/Appellant/A1 was given the benefit of doubt and was acquitted of those charges.

4. The Petitioner/Appellant, as an aggrieved person, has preferred the instant Criminal Appeal mainly on the ground that the trial Court had failed to appreciate that the alleged injuries caused by the Petitioner/ Appellant/A1 is not on the vital part of the body.

5. The Learned Counsel for the Petitioner/Appellant takes a stand that the trial Court failed to take into account that there is no opinion from the doctor as to whether the injuries sustained by P.W.2 to P.W.4 would cause death or not.

6. The other contention projected on the side of the Petitioner/ Appellant/A1 is that there is no material on record to make out a case in respect of an offence under Section 307 I.P.C. against the Appellant.

7. It is represented on behalf of the Petitioner/Appellant/A1 that the fine of Rs.5,000/- was paid before the trial Court itself to the credit of Spl.S.C.No.160 of 2015.

8. Conversely, it is the submission of the Learned Government Advocate (Crl. Side) for the Respondent/Complainant that on behalf of the Respondent/Complainant, witnesses P.W.1 to P.W.15 were examined. Ex.P1 to Ex.P27 were marked. However, M.O.1 and M.O.2 were marked. On the side of the Petitioner/Appellant/A1, no one was examined as a witness and Ex.D1 to Ex.D5 were marked. In reality, the trial Court, after analysing the entire gamut of oral and documentary evidence available on record, found the Petitioner/Appellant/A1 guilty in respect of an offence under Section 307 I.P.C. and imposed necessary punishments.

9. It is to be noted that a filing of a 'Miscellaneous Petition' seeking 'Suspension of Sentence' and for 'Enlargement of Bail' by the concerned Petitioner/Accused, forms an integral part of the main Appeal in Criminal Law.

10. Admittedly, in Law, filing of an 'Appeal' is a continuation of Original Proceedings of the trial Court viz., Spl.S.C.No.160 of 2015. In fact, the Petitioner/Appellant/A1 has exercised his statutory right of preferring the Appeal before this Court as contemplated under the Criminal Procedure Code.

11. At this juncture, this Court has perused the 'Memorandum of Grounds of Appeal' and is of the considered view that the Petitioner/ Appellant/A1 has raised some tangible/arguable points which require detail examination in the hands of this Court at the time of final hearing of the main Criminal Appeal.

12. Be that as it may, inasmuch as the Petitioner/Appellant/A1 has preferred the instant Criminal Appeal before this Court [which is a continuation of Original Proceedings of the trial Court] and also this Court, taking note of the attendant facts and circumstances of the present case in a conspectus fashion and also bearing in mind yet another prime fact that the present Criminal Appeal is not likely to be heard in the near future, at this stage, is inclined to suspend the Substantial Sentence of Imprisonment alone and orders the release of the Petitioner/Appellant/A1 on his executing a bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only) with two sureties each for a like sum to the satisfaction of the Learned Special Judge, Special Court for Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Principal Sessions Court, Erode and on further condition that he shall appear before the said Court on the First Working day of every English Calender month at 11.00 a.m. without fail, till the disposal of the Criminal Appeal.

13. Accordingly, the Crl.M.P.No.906 of 2017 is ordered, on above terms.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com