

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2017

CORAM :

THE HONOURABLE MR.JUSTICE **P.N. PRAKASH**

Crl.A.No.803 of 2017

Malathi

... Appellant

Vs.

State Rep. by
The Deputy Superintendent of Police,
Moolanur Police Station,
Tirupur District
(Crime No.376 of 2017

... Respondent

Criminal Appeal filed under Section 378 of Cr.P.C. to set aside the order passed in bail petition in Crl.M.P.No.1586 of 2017 dated 19.12.2017 on the file of the Principal District and Sessions Judge, Tirupur and enlarge the appellant on bail in Crime No.376 of 2017 on the file of the respondent police.

For Appellant : Mr.W.Camyles Gandhi

For Respondent : Mr.K.Mathan,
Government Advocate (Crl. Side)

JUDGMENT

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On the complaint lodged by one Chinnaraj, the respondent police has registered a case in Crime No.376 of 2017 for the offences under sections 294(b), 324 and 506(ii) of IPC and the FIR was altered to one under sections 294(b), 307 and 506(ii) of IPC and Section 3(1)(r)(s), 3(2)(va) of SC/ST POA Act against one

2. On a reading of the FIR, it is seen that the defacto complainant was having an affair with the petitioner herein, who is the wife of Muruganandam (A1) and later, the defacto complainant got married to one Geethanjali. According to the defacto complainant, this was not to the liking of the petitioner herein and she was causing trouble to the defacto complainant and his wife frequently.

3. It is further alleged in the FIR that the petitioner and her husband Muruganandam are having their chicken shop on the way to the house of the defacto complainant and as and when the defacto complainant's wife passed by, the petitioner would make comments. While so, on 10.12.2017, the defacto complainant questioned Muruganandam (A1) about this. On account of which Muruganandam took a stick and hit him on his head. Saravanan (A2), who is a friend of A1, brandished a knife and threatened the defacto complainant. The defacto complainant got admitted himself into the hospital and is under treatment.

4. Initially, this case was registered for the offences under sections 294(b), 324 and 506(ii) IPC only against Muruganandam and Saravanan. Muruganandam (A1) and Saravanan (A2) are still in abscondance. This petitioner was arrested on 15.12.2017. Her bail application in CrI.M.P.o.1586 of 2017 has been dismissed by the Special Court for SC/ST Act cases on 19.12.2017. Aggrieved by which, this appeal has been preferred.

5. Heard Mr.W.Camyles Gandhi, learned counsel for the petitioner and Mr.K.Madhan, learned Government Advocate (Crl. Side) for the respondent.

6. The learned Government Advocate (Crl.Side) submitted that the defacto complainant is still in the hospital and has not been discharged.

7. Be that as it may, even in the complaint given by the defacto complainant, the petitioner herein has not been implicated in respect of the incident of assault that took place on 10.12.2017. The allegations are mainly against the petitioner's husband Muruganandam and his friend Saravanan. That apart, even according to the defacto complainant, he was having an affair with the petitioner. In such view of the matter, this Court is inclined to grant bail to the petitioner.

8. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/-(Rupees ten thousand only) with two sureties, out of whom, one shall be a blood related surety, each for a like sum to the satisfaction of the learned Judicial Magistrate, Dharapuram and on further condition that:

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall appear before the respondent police as and when required for interrogation.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

9. In the event of the case being altered to one under section 302 IPC, this bail order will not enure advantage of the petitioner herein.

22.12.2017

Index by : Yes/No

Speaking/Non-speaking order

Note : Issue Order copy today (22.12.2017)

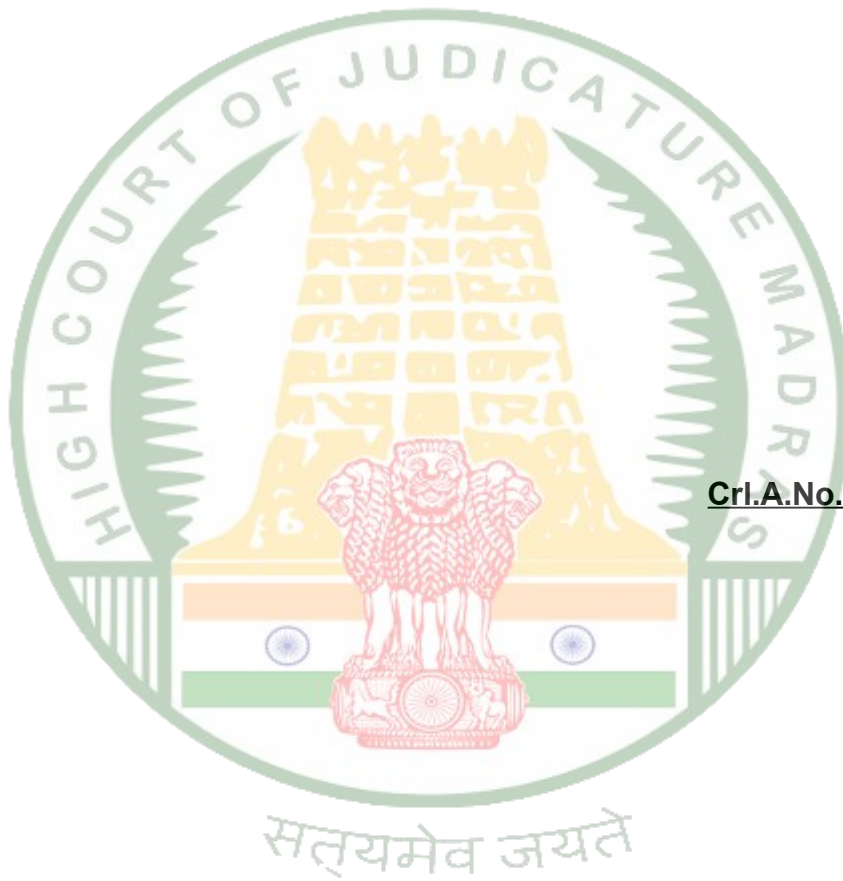
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To

1. The Principal Sessions Judge, Tiruppur.
2. The Judicial Magistrate, Dharapuram.
3. The Deputy Superintendent of Police,
Moolanur Police Station, Tirupur District
4. The Superintendent, Special Women for Women, Coimbatore.
5. The Public Prosecutor, High Court, Madras.

P.N.PRAKASH, J

VRC



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