



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

Cr1.A(MD)No.190 of 2017

1. Ayyappan

2. Sabbari

: Appellants/Petitioners/Accused Nos.1&2

Vs.

State represented by
The Inspector of Police,
Kumbakonam West Police Station,
Kumbakonam,
Thanjavur District.
Crime No.442 of 2016.

: Respondent / Respondent / Complainant

Prayer: Criminal Appeal filed under Section 14 A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 as amended by Act 1/2016 praying to call for the records relating to the order dated 26.05.2017 in Cr.M.P.No.1240 of 2017, on the file of 1st Additional District and Sessions Judge (PCR), Thanjavur and to set aside the same as arbitrary and consequently release the Appellants on bail in connection with FIR in Crime No.442 of 2016. on the file of the Respondent Police.

For Appellants :Mr.A.Arun Prasad

For Respondent :Mr.A.Ramar

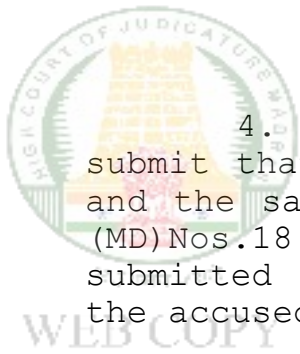
Additional Public Prosecutor(Crl. Side)

JUDGMENT

This Criminal Appeal has been filed praying to call for the records relating to the order dated 26.05.2017 in Cr.M.P.No.1240 of 2017, on the file of 1st Additional District and Sessions Judge (PCR), Thanjavur and to set aside the same, as arbitrary and consequently, release the Appellants on bail in connection with FIR in Crime No.442 of 2016, on the file of the Respondent Police.

2. The Appellants, who were arrested and remanded to judicial custody on 06.10.2016, for the offences punishable under Section 302 I.P.C., r/w Section 3(2)(V) of SC/ST (POA) Act 2015, in Crime No.442 of 2016, on the file of the respondent police, seek bail.

3. The case of the prosecution is that due to previous
notice between one Mohan and the deceased, on 02.10.2016, about
about 7.00 p.m., the accused attacked the deceased with aruval and
he died on the spot.



4. The learned counsel appearing for the appellants would submit that Goondas Act has been invoked as against the appellants and the same have revoked by this Court, as per the order in HCP (MD) Nos.18 and 21 of 2017, dated 23.05.2017 respectively. He also submitted that no identification parade was conducted to identify the accused by the prosecution.

5. The learned Additional Public Prosecutor appearing for the respondents, on instructions, would submit that there are totally 3 accused in this case and the 1st appellant herein is named accused and the 2nd appellant herein is friend of A1. He would further submit that due to previous motive, between one Mohan and the deceased, on 02.10.2016, about about 7.00 p.m., the accused said to have attacked the deceased with aruval and he died on the spot. As per the confession given by A1 in this case, the first appellant said to have attacked the deceased with aruval, while riding as pillion rider in a two wheeler, driven by the 2nd appellant herein. The 2nd appellant said to have dashed on the vehicle driven by the deceased and facilitate to commit the offence by the first accused in this case. He also submitted that the first appellant is having four previous cases and the 2nd appellant is having one previous case. The appellants were arrested on 06.10.2016 and they are now in judicial custody. Now, the case is pending as S.C.No.6 of 2017, on the file of learned 1st Additional District and Sessions Judge (PCR), Thanjavur and the matter is posted for trial.

6. Considering the above facts and circumstances of the case and also the fact that the first appellant is having four previous cases including 302 IPC., offence and also the alleged overt act of the first appellant in the occurrence and the case is pending as S.C.No.6 of 2017 and the second appellant is facilitated to commit the murder by the first accused in this case, this Court is not inclined to grant bail to the appellants.

7. In the result, this Criminal Appeal is dismissed by confirming the order dated 26.05.2017 passed in Cr.M.P.No.1240 of 2017 by the learned 1st Additional District and Sessions Judge (PCR), Thanjavur.

Sd/-

Assistant Registrar(AD-II)

/True Copy/

Sub Assistant Registrar

To

1.The 1st Additional District and Sessions Judge (PCR),
Thanjavur.

2.The Inspector of Police,
Kumbakonam West Police Station,
Thanjavur District.



3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

MPK

JS/KK/SAR.4/24.7.2017/3P-4C

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