



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2017

CORAM:

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THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

Cr1.A(MD)No.262 of 2017

Vadivel : Appellant/Accused No.12

Vs.

The State represented by
The Inspector of Police,
Sivagangai Town Police Station,
Sivagangai District.
(Crime No.5 of 2017).

: Respondent/ Complainant

Prayer: Criminal Appeal filed under Section 14 A (2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 as amended by Act 1/2016 to call for the records pertaining to the order dated 17.06.2017 made in Cr.M.P.No.1445 of 2017 on the file of the Sessions Judge, Special court for Exclusive Trial of Cases under SC/ST POA Act, 1989, Sivagangai and to set aside the same and enlarge the appellant on bail in connection with Crime No.5 of 2017 on the file of the respondent police by allowing this Criminal Appeal.

For Appellant :Mr.S.Pakalavan

For Respondent :Mr.A.Ramar

Additional Public Prosecutor(Cr1. Side)

JUDGMENT

This Criminal Appeal has been filed praying to call for the records pertaining to the order dated 17.06.2017 made in Cr.M.P.No.1445 of 2017 on the file of the Sessions Judge, Special court for Exclusive Trial of Cases under SC/ST POA Act, 1989, Sivagangai and to set aside the same and enlarge the appellant on bail.

2.The appellant , who was arrested on 07.05.2017 for the offences punishable under Sections 147,148,341,294(b), 302 of I.P.C and Section 3 of TNPPDL Act r/w 3(1)(r)(s) and 3(2)(va) of SC/ST POA Act, 1989, in Crime No.5 of 2017 on the file of the respondent, seeks bail.



3. The case of the prosecution is that the appellant herein is the driver of the car and 12th accused in this case. A1 and other accused have stopped the deceased, who is the husband of the defacto complainant, before the Micheal Matriculation School, Meenakshi Nagar, Sivagangai and scolded him in filthy language by using the caste name and attacked him.

4. The learned counsel appearing for the appellant states that the appellant has no specific overt act in the occurrence and the appellant is only a driver of the car other and he is no way connected in this occurrence and he has no previous motive or any enmity with the deceased. He further submitted that the appellant has nothing to do with the alleged occurrence and he has been falsely implicated in this case. He further submitted that the appellant was arrested and remanded into the judicial custody on 07.05.2017.

5. The learned Additional Public Prosecutor appearing for the respondent, on instructions, would submit that there are totally 11 named accused and 3 unnamed accused in the F.I.R and the appellant herein is arrayed as A12 in this case and he has been implicated as per the confession statement given by A1 and A7. He further submitted that A8 to A11 and A13 were arrested and released on bail by this Court and A1, A7 and A12 are in judicial custody. The specific overt act against the appellant attributed to the occurrence is that the appellant is a car driver and said to have driven by the car with bogus number plate and the accused were travelled in the said car for the commission of the offence of murder and thereafter, the appellant took all the accused in this car from the scene of occurrence. He also submitted that final report was laid before the learned Judicial Magistrate No.I, Sivagangai, but not taken on file so far.

6. Considering the above facts and circumstances of the case and also considering the facts that the final report was laid, but not taken on file by the concerned Judicial Magistrate and the co-accused were released in this case, this Court is inclined to allow the appeal.

7. In the result, the Criminal Appeal is allowed and the order dated 17.06.2017 made in Cr.M.P.No.1445 of 2017 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST POA Act, 1989, Sivagangai, is set aside and the appellant is enlarged on bail subject to certain conditions.

8. The appellant is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand and 00 paise) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Sivagangai and on further condition that:



[a] the appellant shall report before the Judicial Magistrate No.I, Sivagangai daily at 10.30 a.m., until further orders.

[b] the appellant shall not tamper with evidence or witness either during investigation or trial.

[c] the appellant shall not abscond either during investigation or trial.

[d] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the appellant in accordance with law, as if the conditions have been imposed and the appellant 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].

sd/-

24/07/2017

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

To

1. THE SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF
CASES UNDER SC/ST POA ACT, 1989, SIVAGANGAI.
2. THE JUDICIAL MAGISTRATE NO.I, SIVAGANGAI.
3. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE, SIVAGANGAI.
4. THE INSPECTOR OF POLICE,
SIVAGANGAI TOWN POLICE STATION, SIVAGANGAI DISTRICT.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
6. THE SUPERINTENDENT, CENTRAL JAIL, MADURAI.

+1CC TO Mr.S.PAKALAVAN, ADVOCATE, SR NO.67538

Cr1.A(MD).No.262 of 2017
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MS/PM-PN/SAR.1/27.07.2017/3P.8C



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