

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 16.03.2018
Pronounced on: 27.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Criminal Appeal No.134 of 2018

Sathiyamoorthy ... Appellant/Petitioner/Accused No.1

Vs.

The State rep. by:
The Inspector of Police,
R-6, Kumaran Nagar Police Station,
Saidapet, Chennai.
(in Cr.No.83 of 2018) ... Respondent/Respondent/Complainant

Prayer: Criminal Appeal filed under Section 14(A) of the SC/ST (Prevention of Atrocities) Amendment Act, 2015 r/w 374(3) of Cr.P.C., against the order passed by the learned Principal Sessions Court, Chennai on 21.02.2018 in Cr.M.P.No.2960 of 2018 dismissing the bail petition for the alleged offence under Section 306 r/w 116, 417 of IPC @ Section 376, 306, r/w 116 and 417 of IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 2015.

For Appellant : Mr.P.Ganapathi Subramaniam
For Respondent : Mrs.T.P.Savitha
Government Advocate (Crl.Side)

JUDGMENT

This appeal filed against the order of dismissal, dismissing the Crl.M.P.No.2960 of 2018 in Crime No.83 of 2018, dated 21.02.2018, on the file of the learned Special Judge, Chennai under the SC/ST (Prevention of Atrocities) Act, Principal Sessions Court, Chennai.

2.The case of the prosecution is that the de-facto complainant has given a complaint to the respondent/police alleging that the complainant is belongs to Scheduled Caste and the appellant and the victim Sheela, who is the daughter of the de-facto complainant were studied together at Anna Institute of Management, Raja Annamalaipuram for Civil Services Examination

and they were love affair and had physical relationship under the guise of marrying the victim girl Sheela, since the appellant, who is an accused assured to perform register marriage on 19.01.2018, but the appellant has not fulfill his promise and tried to marry his relative.

3.The further case of the prosecution is that it is alleged that the appellant along with his parents came to the de-facto complainant's house and abused them by referring to their caste. Therefore, the victim girl tried to commit suicide by cutting herself using blade on her neck.

4.Pursuant to the complaint given by the de-facto complainant, who is the father of the victim girl, the respondent/police has initially registered a case under Sections 306 IPC r/w 116 and 417 of IPC, later on the said F.I.R. was altered into Sections 376, 306 r/w 116, 417 and Section 3(2)(v) of SC/ST (Prevention of Atrocities) Act, 1989 and thereafter, the appellant was arrested on 21.01.2018 and remanded into judicial custody by the learned XXIII Metropolitan Magistrate, Saidapet, Chennai.

5.The case of the appellant is that the appellant is working as a Probation Officer at Vellore and as per the statement of victim girl which reveals that the victim girl is aged about 28 years and completed her M.Sc. Advanced Bio-Chemistry course in the year 2011. In the year 2014, the victim girl know about the appellant during 2014 when both of them were attended a competitive classes coaching center in Chennai, while preparing for Group-I Examination and developed their friendship between them for the past 3 years.

6.It is the case of the appellant is that there was no love affairs between the appellant and the victim girl and taking advantage of the friendship developed between the appellant and the victim girl for the past 3 years. The de-facto complainant and the victim girl family in order to grab the entire property from the appellant, this false copy leveled against the appellant.

7.The appellant further states that it is totally false case, since it is alleged that the appellant is raped the victim girl, who is aged about 28 years and completed her M.Sc. Advanced Bio-Chemistry course in the year 2011 itself and the appellant has given promise to marry her. Based on that the case has been registered under Sections 306 IPC r/w 116 and 417 of

IPC, later on the said F.I.R. was altered into Sections 376, 306 r/w 116, 417 and Section 3(2)(v) of SC/ST (Prevention of Atrocities) Act, 1989.

8. Though the appellant moved the Special Court, Chennai, who is the Sessions Judge, Chennai and filed CrI.M.P.No.2960 of 2018 for bail, which was dismissed on 21.02.2018 on the ground that the investigation is still pending.

9. It is the case of the prosecution and the de-facto complainant is that this appellant and his parents were abused the victim girl and her mother in abusive language and also referring their caste name which induced the victim girl to commit suicide. The investigation is not yet completed and the Medical report is not yet received. Therefore, he opposes the grant of bail.

10. I heard Mr.P.Ganapathi Subramaniam, learned counsel for the appellant and Mrs.T.P.Savitha, learned Government Advocate (Criminal Side) for the respondent and perused the entire records.

11. Admittedly, the petitioner was arrested on 21.01.2018 for the alleged offences under Section 306 IPC r/w 116 and 417 of IPC and he is in judicial custody for more than 70 days.

12. It is the case of the prosecution is that this appellant has committed rape on the victim girl, who is alleged to be 28 years. It is also further alleged that both of them were loved each other for the past 3 years and falsely made promise to the victim girl and have the intercourse with the appellant.

13. Originally the mother of the victim girl has given a complaint, later on the victim girl who is aged about 28 years has given a statement which was taken as complaint and it was alleged that there was no forcible rape on the victim girl, but on promising only it was alleged that the appellant was having physical relationship with the victim girl.

14. It is my absolute view that the petitioner is in judicial custody from 21.01.2018 and the investigation is almost over and the victim girl also already sent for Medical test. Therefore, I am inclined to grant bail with the following condition:

(a) this Criminal Appeal is allowed by setting aside the order passed in Crl.M.P.No.2960 of 2018, dated 21.02.2018, on the file of the learned IV Additional Sessions Judge i/c of Special Court/Principal Sessions Court, Chennai;

(b) the appellant is ordered to be released on bail, on condition that the appellant shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties out of whom, one shall be blood related surety, each for a like sum to the satisfaction of the learned IV Additional Sessions Judge i/c of Special Court/Principal Sessions Court, Chennai;

(c) the appellant and 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;

(d) the appellant shall appear before the respondent/Police daily at 10.30 a.m. until further orders;

(e) the appellant shall not tamper with evidence or witnesses during the trial.

(f) the appellant shall not abscond during the trial.

(g) On breach of any of the aforesaid conditions, the learned IV Additional Sessions Judge i/c of Special Court/Principal Sessions Court, Chennai, is entitled to take appropriate action against the appellant in accordance with law as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

(h) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

-s/d-
Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

vs

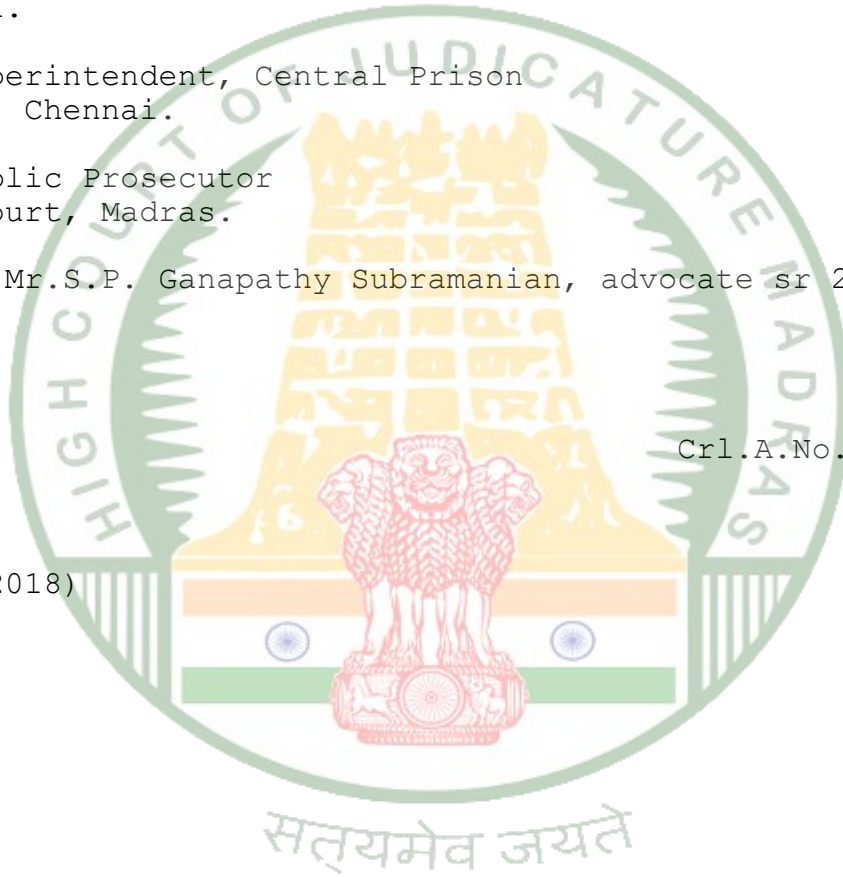
To

1. The Principal Sessions Court,
Chennai.
2. The Inspector of police
R6, Kumaran Nagar Police Station
Saidapet, Chennai.
3. The XXIII Metropolitan Magistrate
Chennai.
4. The Superintendent, Central Prison
Puzhal, Chennai.
5. The Public Prosecutor
High Court, Madras.

+2 Ccs to Mr.S.P. Ganapathy Subramanian, advocate sr 23146 &
20429.

Cr1.A.No.134 of 2018

NMI (CO)
SP(28/03/2018)



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