

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.08.2018

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.A.No.512 of 2018

1.Palanisamy
2.Shanmugam
3.Murthy
4.Sakthivel
5.Palanisamy
6.Kandasamy
7.Murthy

.. Appellants

Vs.

State rep.by
Inspector of Police,
Seyur Police Station,
Avinashi Taluk,
Tiruppur District.
(Crime No.187 of 2018)

...Respondent

Prayer: Criminal Appeal filed under Section 14-A of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 as amended by Act 1 of 2016 praying to set aside the order dated 11.08.2018 passed in C.M.P.No.1259 of 2018 on the file of the Principal Sessions Court, Tiruppur and enlarge the petitioners on bail pending investigation in crime No.187/2018 on the file of the respondent police.

For Appellants :Mr.K.Goviganesan

For Respondent :Ms.S.Thankira,

Government Advocate (Crl.Side)

JUDGMENT

This appeal has been preferred against the order passed in Crl.M.P.No.1259 of 2018 on the file of the learned Principal Sessions Judge, Tiruppur in Crime No.187 of 2018 on the file of the Inspector of Police, Seyur Police Station, Avinashi Taluk, Tiruppur District.

2.The case of the respondent/prosecution is that the defacto complainant belongs to Arunthathiyar Community of Thirumalai goundenpalayam Village. She is working as a cook attached to Nutrition Scheme run by the Government of Tamilnadu, in various places. Subsequently, she was transferred to

Government High School, Thirumalai goundanpalayam. In pursuant to the transfer, she went to the said School and took charge as Cook. When she was working, the appellants, who are arrayed as A1 to A7 and others came there and objected her for cooking in the said school on the ground that the defacto complainant belongs to Arunthathiyar Community and that their children would not consume food cooked by her and that, they had objected on the ground of un-touchability and abused her in unparliamentary language by calling her caste name and also threatened her with dire consequences. Hence, the defacto complainant had lodged a complaint against the appellants/accused 1 to 7.

3. However, the learned counsel appearing for the appellants would submit that the appellants are innocent and they have not committed any offence as alleged by the prosecution case. The defacto complainant's husband is an AIADMK functionary in the village. When the Government High School was constructed in place earmarked for that purpose at Thirumalai goundanpalayam, he strongly objected to it and a wordy quarrel erupted between the villagers and him and further, he used to cheat the people in connection with the welfare measures announced by the Government and this was objected by the villagers. After assuming office as a Cook, the defacto complainant cooked the food and when she was serving to the students, she insulted them by saying that though they belong to upper caste community, they have to take the food prepared by her and some students were also threatened and the matter was brought to the knowledge of the authorities. However, the defacto complainant taking advantage of her caste has lodged the false complaint against the appellants and others. The learned counsel for the appellants would further submit that the appellants are in the judicial custody from 25.07.2018 without committing any offence and they did not have any bad antecedents. However, the learned trial Judge without considering the above said facts, has dismissed the petition filed by the appellants in C.M.P.No.1259 of 2018. Against the above said order, the present Criminal Appeal has been filed by the appellants for the aforesaid prayer.

4. The learned Government Advocate (Criminal Side) would submit that the problem between two groups of people belong to difference community will aggravate in case of release of these appellants on bail, since this case has been registered under the Tamil Nadu SC/ST (POA) Amendment Act, 2015 as against 80 persons and out of them, 66 accused have to be arrested and all of them belong to backward community and the investigation is pending. He would further submit that if they are released on bail, the appellants will abscond, tamper the witnesses. Hence, he opposed to grant bail to the appellants and the order of the trial Court does not warrant interference.

5.I have heard the learned counsels on either side and perused the materials available on record.

6. Considering the aforesaid facts and circumstances of this case as well as the submissions made by both sides and taking note of the fact that the appellants have been inside the jail, as a pre-trial prisoner, for more than a month and by this time, the prosecution would have reached some progress in the investigation, this Court is inclined to allow this appeal on the following conditions:

(a) The appellants shall be released on bail on each of them executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned Judicial Magistrate, Avinashi;

(b) the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Judge may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(c) the appellants are directed to file an affidavit of undertaking before the trial Court that he will not indulge in any illegal activities in future and on receipt of the said affidavit, the trial Court is directed to accept the sureties;

(d) the appellants shall report before the respondent police daily at 10.30 a.m., until further orders.

(e) the appellants shall not tamper with evidence or witness either during investigation or trial;

(f) the appellants shall not abscond either during investigation or trial;

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

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

(i) It is made clear that if any condition is violated even for one day, the

same can be viewed seriously and it is open to the prosecution to bring the same to the notice of this Court and seek for cancellation of bail.

7. In the result, with the above directions and conditions, this Criminal Appeal is allowed.

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

True Copy

Sub-Assistant Registrar

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To

- 1.The Principal Sessions Judge, Tiruppur.
2. The Judicial Magistrate, Avinashi, Tiruppur district
- 3.The Inspector of Police, Seyur Police Station.
- 4.The Public Prosecutor, High Court, Madras.

+1 CC to Mr.K.Govi Ganesan, Advocate sr 58563.

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SP(29/08/2018)

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