

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Date: 13.11.2018

CORAM
THE HONOURABLE THIRU JUSTICE V. PARTHIBAN

Crl.A.No.704 of 2018

Sakthivel

..Petitioner/Accused

versus

1. State by

The Inspector of Police,
Tholampatti Police Station,
Salem District

..Respondent/Complainant

Prayer: This Criminal Appeal is filed under Section 374(2) Cr.P.C., seeking to set aside the order dated 31.10.2018 passed by the learned Principal Sessions Judge, Salem in C.M.P.No.3771 of 2018 in S.C.No.278 of 2016 and enlarge the petitioner on bail.

For Appellant : Mr.S.Udayakumar
for M/s.Karan and Uday

For Respondent : Mrs.V.Sarathadevi,
G.A. (Crl.side)

JUDGMENT

This Criminal Appeal has been preferred by the appellant, seeking to set aside the order dated 31.10.2018 passed by the learned Principal Sessions Judge, Salem in C.M.P.No.3771 of 2018 in S.C.No.278 of 2016 and enlarge the petitioner on bail.

2. The appellant herein, is one of the accused in S.C.No.278 of 2018 on the file of the Principal Sessions Judge, Salem, for the offences under Sections 147, 148, 427, 526(ii) IPC and Section 3(1)(x) of SC & ST (POA) Act. It appears that on 26.10.2018, due to non-appearance of the appellant, an NBW was issued by the Court below, pursuant to which, the appellant was arrested and remanded to judicial custody. Thereafter, the appellant moved a petition in CMP No.3771 of 2018 in S.C.No.278 of 2016 under Section 439 Cr.P.C., seeking to grant bail, which came to be dismissed by the Court below. Aggrieved by the same, the appellant has come forward with the present appeal.

3. Learned counsel appearing for the appellant would submit that due to sudden illness, the appellant could not appear before the Court below and it was neither willful nor wanton and without appreciating the same, the learned Judge has dismissed the petition, which required interference.

4. Heard the learned Government Advocate (Crl.side) and perused the entire materials placed on record.

5. A perusal of the order passed by the learned Principal Sessions Judge, would reveal that due to frequent absence of the appellant, the Court was handicapped in framing the charges and that the Court already warned all the accused to appear in person without fail on 26.10.2018 for framing the charges, however, despite the same, the appellant and other two accused remained absent and no petition to condone the absence of the appellant was filed, which showed that the appellant in collusion with other accused, thwarting the proceedings and virtually prevented the Court from framing the charge. Having observed so, the learned Principal Sessions Judge dismissed the petition, which, in the opinion of this Court, requires no interference of this Court. Generally, this Court will loath to interfere in a case of this nature, where an accused who is on bail, had been absconding, thereby delaying the trial. It is pertinent to note that this is a case of year 2016 and it requires early disposal by the trial Court. However, it is unfortunate to note that for the past two years, the case has been pending even at the stage of framing the charges. Therefore, in the circumstances, it is not appropriate to entertain the present appeal. Accordingly, the Criminal Appeal fails and it is dismissed. However, the petitioner is at liberty to move a petition for bail before the Court below, which shall be considered and disposed of on merits.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1.The Principal Sessions Judge, Salem

2.The Inspector of Police,
Tholasampatti Police Station,
Salem District.

3.The Public Prosecutor,
High Court, Madras.

+1cc to M/s.Karan and Uday, Advocate, S.R.No.77144

Crl.A.No.704 of 2018

rrs 30/11/2018