



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.A.(MD)No.100 of 2018

Sureshkumar : Appellant/ Petitioner/ Sole Accused

Vs.

1.The State rep. by its
The Deputy Superintendent of Police,
Sankarankovil,
Tirunelveli District. :1st Respondent/Investigation Officer

2.The Sub-Inspector of Police,
Karivalamvandhanallur Police Station,
Tirunelveli District.
(Crime No.47 of 2018) : 2nd Respondent/ Respondent

3.Vairamuthu :3rd Respondent/Defacto- Complainant

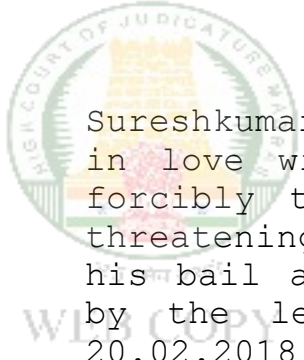
PRAYER: Criminal Appeal is filed under Section 14A(2) of Scheduled Castes/Scheduled Tribes (POA) of 1989 as amended by Act 1/2016, to call for the entire records relating to the order dated 20.02.2018 made in Cr.M.P.No.224 of 2018 on the file of the learned Sessions & Mahila Court, Tirunelveli and to set aside the same as arbitrary and consequently to release the petitioner on bail in connection with FIR in Crime No.47 of 2018 on the file of the respondent police.

For Appellant : Mr.M.S.Jeyakarthik
For R1 and R2 : Mrs.S.Bharathi,
Government Advocate (Crl.side)

JUDGMENT

On the complaint lodged by Vairamuthu, the respondent police registered a case in Crime No.47 of 2018 on 28.01.2018 for the offences under Sections 294(b), 354D, 366(A), 506(2) of the Indian Penal Code, Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 and Sections 11(1) and 12 of the Protection of Children From Sexual Offences Act, 2012 against Sureshkumar.

<https://hcservices.courts.gov.in/hcservices/>
2. On perusal of the first information report, it is alleged that the defacto-complainant belongs to Dalit Community; that



Sureshkumar belongs to Caste Hindu Community; that Sureshkumar was in love with the defacto complainant's minor daughter; that he forcibly took his daughter in his motor bike on 27.01.2018 by threatening her; that Sureshkumar was arrested on 28.01.2018 and his bail application in Cr.M.P.No.224 of 2018 has been dismissed by the learned Sessions Judge, Mahila Court, Tirunelveli, on 20.02.2018, aggrieved by which, he has filed the present criminal appeal.

3. Heard the learned counsel for the appellant and the learned Government Advocate (Criminal side) for the respondents 1 and 2.

4.The learned Government Advocate (Criminal side) produced the 164 Cr.P.C., statement of the victim girl, wherein, she has stated that Sureshkumar took her in his motorbike and suddenly the motobike developed a snag, pursuant to which, he stopped the motorbike and that she used that opportunity to escape and was hiding in a nearby bush till dawn the next day and returned home. She has not stated that she was sexually abused by Sureshkumar.

5.The learned Counsel for the appellant states that the petitioner and the daughter of the defacto complainant loved each other. Since, they belonged to two different communities, such a case has been foisted against Sureshkumar.

6.Be that as it may, Sureshkumar is in custody since 28.01.2018 and there is no allegation of sexual abuse and he is a twenty year old boy. Taking into consideration the facts and circumstances of the case, this Criminal Appeal is allowed and the Appellant/Sole Accused is ordered to be released on bail, subject to the following conditions:

(i) the appellant / sole accused shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Sessions Judge, Mahila Court, Tirunelveli;

(ii)the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Sessions Judge, Mahila Court, Tirunelveli, may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity.

(iii)On release, the appellant / sole accused shall report before the second respondent police, at 10.30 am for a period of two weeks and thereafter, as and when required by the respondent police for interrogation.



(iv) the appellant / sole accused shall not tamper with evidence or witness either during investigation or trial.

(v) the appellant / sole accused shall not abscond either during investigation or trial.

(vi) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the appellant / sole accused in accordance with law as if the conditions have been imposed and the appellant / sole accused 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/-

Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar

To

- 1.The Sessions & Mahila Court, Tirunelveli.
- 2.The Deputy Superintendent of Police,
Sankarankovil, Tirunelveli District.
- 3.The Sub-Inspector of Police,
Karivalamvandhanallur Police Station,
Tirunelveli District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
5. The Superintendent,
Borstal School, Nanguneri.

+1CC TO Mr.M.S.JEYAKARTHIK, Advocate, Sr No.52650

Judgment made in
Crl.A.(MD)No.100 of 2018
Dated:02.03.2018

cmr/ta

MS/PM-PN/SAR.4/05.03.2018/3P.7C