



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 11.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
Crl.A.(MD)Nos.3 and 4 of 2018

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Kannaiyiram : Appellant/Petitioner/Accused No.1
in Crl.A.(MD)No.3 of 2018
K.Udayakumar : Appellant/Petitioner/Accused No.2
in Crl.A.(MD)No.4 of 2018

Vs.

1.The Deputy Superintendent of Police,
Virudhunagar,
Virudhunagar District.1st Respondent

2.State represented by
The Inspector of Police,
Vatchchakarapatti Police Station,
Vatchchakarapatti,
Virudhunagar District,
In Crime No.471 of 2017 ...2nd Respondent/Respondent/
Complainant

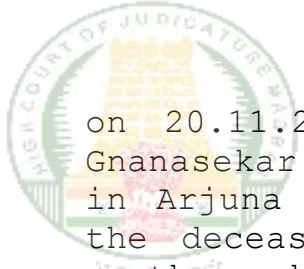
3.Baskaran : 3rd Respondent/Defacto Complainant

COMMON PRAYER: Criminal Appeals are filed under Section 14A-2 of SC/ST Amended Act, 2015 to set aside the order passed in Cr.M.P.Nos.4282 of 2017 and 4283 of 2017 respectively on the file of the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputtur, dated 14.12.2017 and enlarge the appellants on bail in connection with Crime No.471 of 2017 on the file of the second respondent police.

For Appellants : Mr.C.Jeyaprakash
For Respondents 1&2 : Mr.M.Asokan,
Government Advocate (Crl.side)

COMMON JUDGMENT

On the complaint lodged by one Baskaran, the respondent police registered a case in Crime No.471 of 2017 on 21.11.2017 under Sections 302, 201 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(2)(v) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 against Kannaiyiram (A-1) and his son Udayakumar(A-2). It is the case of the defacto complainant that the deceased Thilagaraj is his own brother; that



on 20.11.2017 he along with the deceased Thilagaraj, deceased Gnanasekar and others from the Village were illegally lifting sand in Arjuna river; that when police came, they all ran away; that the deceased Thilagaraj and the deceased Gnanasekar ran in the northern direction; that the *defacto* complainant reached his home, but, his brother Thilagaraj did not reach home and that on the next day, the body of Thilagaraj and the body of Gnanasekar were found in the field of the accused having been electrocuted. Both the accused were arrested by the police on 22.11.2017 and were remanded to custody. The case was altered from 302 IPC to 304 IPC on 25.11.2017, since it came to light that the accused had not committed the murder of the deceased and that the deceased had died on account of electrocution. Udayakumar (A-2) filed Cr.M.P.No.4094 of 2017 before the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputtur, which came to be dismissed on 05.12.2017. Challenging the order of dismissal, Udayakumar (A-2) filed CrI.A.(MD)No.495 of 2017, which was also dismissed by this Court on 12.12.2017. Thereafter, the accused Nos.1 and 2 filed fresh bail applications in Cr.M.P.Nos.4282 of 2017 and 4283 of 2017 respectively before the Special Court and after the dismissal of the same, they have preferred the present appeals.

2. Heard the learned counsel for the appellants and the learned Government Advocate (Criminal side) appearing for the first and second respondents.

3. The learned counsel for the appellants submitted that even according to the case of the *defacto* complainant, the deceased were sand thieves and on seeing the police, they have fled and they came into contact with the electrified fence that is said to have been put by the accused and had died. The learned counsel submitted that the widows of the deceased Thilagaraj and Gnanasekar had filed individual Writ Petitions in W.P.(MD) Nos.22069 of 2017 and 22070 of 2017 disputing the version of the police and contending that the deceased were illegally arrested by the police and they had died in police custody and afterwards, the police had thrown the body into the field of the accused as if the deceased had died out of electrocution.

4. This Court had directed second post-mortem of the two dead bodies. Thus, on one hand, the *defacto* complainant, who is the own brother of one of the deceased, has stated in the First Information Report that the deceased ran away on seeing the police and died out of electrocution, but the widows of the deceased have taken a stand that the deceased died while in police custody. In such view of the matter, this Court is inclined to grant bail to the accused, inasmuch as it is not the case of any party that the accused had murdered the deceased.

<https://hcservices.courts.gov.in/hcservices/>, the Criminal Appeals are allowed and the Appellants/Accused Nos.1 and 2 are ordered to be released on bail, subject to the following conditions:



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- (i) each of the petitioners / accused Nos.1 and 2 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 Judicial Magistrate No.1, Virudhunagar;
- (ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Judicial Magistrate No.1, Virudhunagar may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity.
- (iii) the petitioners / accused Nos.1 and 2 shall report before the respondent Police daily at 10.30 a.m., for a period of four weeks and thereafter, as and when required.
- (iv) the petitioners / accused Nos.1 and 2 shall not tamper with evidence or witness either during investigation or trial.
- (v) the petitioners / accused Nos.1 and 2 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 petitioners / accused Nos.1 and 2 in accordance with law as if the conditions have been imposed and the petitioners / accused Nos.1 and 2 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(P&A)

/True copy/

Sub Assistant Registrar

To

1.The Principal District and Sessions Judge,
Virudhunagar District at Srivilliputtur.

2.The Judicial Magistrate No.I,
Virudhunagar.

3.The Director General of Police,
Mylapore,
Chennai-4.

<https://hdservicecourts.gov.in/cases/cases>
4.The Deputy Superintendent of Police,
Virudhunagar,
Virudhunagar District.



5.The Inspector of Police,
Vatchchakarapatti Police Station,
Vatchchakarapatti,
Virudhunagar District,

6.The Superintendent of Prison, District Jail,
Virudhunagar.

7.The Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+2cc to Mr.C.JEYAPRAKASH,Advocate,SR. 41841,41842

Cr1.A.(MD)Nos.3 and 4 of 2018
11.01.2018

SML

KK/SKN RSK/SAR 2/11.01.2018/ 4P- 10C/