



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.A.(MD)No.97 of 2018

1.Karthick
2.Esakkimuthu @ Ayyappan
3.Subramanian
4.Velayutham : Appellants / Accused Nos.1 to 4

Vs.

State represented by
The Inspector of Police,
Alangulam Police Station,
Tirunelveli District. : Respondent / Complainant
(Crime No.18 of 2018).

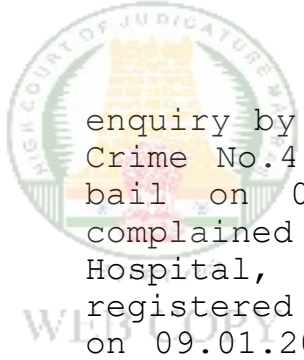
PRAYER: Criminal Appeal is filed under Section 14-A(2) the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, to call for the records pertaining to the order dated 07.02.2018 made in Cr.M.P.No.372 of 2018 on the file of the learned Second Additional District & Sessions Judge, Tirunelveli, and set aside the same and enlarge the appellants on bail in connection with Crime No.18 of 2018 on the file of the respondent by allowing this criminal appeal.

For Appellants : Mr.D.Venkatesh
For Respondent : Mrs.S.Bharathi
Government Advocate(Crl.side)

JUDGMENT

The deceased was the driver of a School bus. On 04.01.2018, the deceased is said to have scolded a student, by name, 'X'. 'X' reported this to her grandmother, by name, Maheshwari. On 05.01.2018, when Maheshwari questioned the deceased, the deceased is said to have assaulted her. Therefore, on the complaint of Maheshwari, a case in Crime No.4 of 2018 was registered by the police for the offences under Sections 294(b), 352, 506(2) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 2002, against the deceased.

2. Parallely, the son of the deceased, by name, Sarath, gave a complaint to the police alleging that the appellants herein had manhandled and attacked the deceased. The said complaint was under



enquiry by the police. However, the police arrested the deceased in Crime No.4 of 2018 on 05.01.2018 and the deceased was released on bail on 08.01.2018. After the deceased came out on bail, he complained of uneasiness and was admitted to the Government Hospital, where he died on 09.01.2018. Initially, the police registered a case in Crime No.18 of 2018 under Section 174 Cr.P.C., on 09.01.2018 in connection with the death of the deceased in the hospital. However, on the complaint given by Sarath, earlier, that his father was assaulted by the appellants herein on 05.01.2018, the case in Crime No.18 of 2018 was altered to one under Sections 294 (b), 324, 323, 506(ii) IPC r/w Sections 3(1)(r)(s) and 3(2)(v) (A) of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 and Section 174 Cr.P.C.. The appellants 1 to 3 were arrested on 10.01.2018 and the fourth appellant surrendered before the learned Judicial Magistrate No.I, Tirunelveli on 18.01.2018. All the appellants have filed Cr.M.P.No.372 of 2018 for bail, which has been dismissed by the learned Second Additional District and Sessions Judge, Tirunelveli, on 07.02.2018, challenging which, this Criminal Appeal has been filed.

3. Heard Mr.D.Venkatesh, learned counsel appearing for the appellants and Mrs.S.Bharathi, learned Government Advocate appearing for the respondent.

4. Today, Mr.Aiyappan, Inspector of Police, Alangulam Police Station, Tirunelveli District, is present in Court today. On instructions, the learned Government Advocate (Criminal side) submitted that there are previous cases against Karthick [A1], Esakkimuthu @ Ayyappan [A2] and Subramanian [A3]. However, in this case, Karthick [A1] and Velayutham [A4] are brothers and they are the sons of Maheshwari. They are also the paternal uncle of the girl 'X'. That is why, when the deceased had scolded 'X', Karthick [A1], Velayutham [A4] along with their friends Esakkimuthu @ Ayyappan [A2] and Subramanian [A3] have assaulted the deceased. Thankfully, the police have not filed an alteration report altering the offence to one under Section 302 IPC and they are the accused for the offences under Sections 294(b), 324, 323 and 506(ii) IPC and since the deceased driver belongs to Scheduled Caste Community, the offences under the SC/ST Act have been included.

5. Taking into consideration the facts and circumstances of the case, this Court is of the view that this is a fit case to grant bail to the appellants.

6. In the result, this Criminal Appeal is allowed with a direction to the Trial Court to release the appellants on bail on them executing a bond, as determined by the trial Court, taking into consideration the antecedents and other aspects of the accused, so as to ensure that they do not jump bail, subject to the following conditions:

<https://hcservices.ecourts.gov.in/hcservices/>

(i) On release, the appellants / accused Nos.1 to 4



shall report before the respondent police every day at 06:30 p.m., for a period of two weeks and thereafter, as and when required by the respondent police for interrogation.

(ii) the appellants / accused Nos.1 to 4 shall not tamper with evidence or witness either during investigation or trial.

(iii) the appellants / accused Nos.1 to 4 shall not abscond either during investigation or trial.

(iv) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the appellants / accused Nos.1 to 4 in accordance with law as if the conditions have been imposed and the appellants / accused Nos.1 to 4 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].

(v) If the appellants/Accused Nos.1 to 4 abscond, a fresh First Information Report can be registered against them under Section 229-A of the Indian Penal Code.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

- 1.The Second Additional District & Sessions Judge, Tirunelveli.
2. The Judicial Magistrate, Alangulam.

3.The Inspector of Police, Alangulam Police Station,
Tirunelveli District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

5. The Superintendent, Central Prison, Palayamkottai

(In duplicate communicate to the detenu Nos.1 to 4 (4 copies))

Copy to:

The Record Keeper, Criminal Section,
Madurai Bench of Madras High Court, Madurai (2 copies)
+1CC to Mr.D.Venkatesh, Advocate, SR.No.58301

Judgment made in
Crl.A. (MD) No.97 of 2018

Dated:-
27.03.2018