



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

CRL.O.P.(MD)No.2916 of 2018

Saravanan

... Petitioner/Sole Accused

-Vs-

1.The Deputy Superintendent of Police,
O/o.The Deputy Superintendant of Police,
Ramanathapuram District.

2.The Inspector of Police,
Rameswaram Town Police Station,
Ramanathapuram District.
(Crime No.21 of 2018)

3.Krishnaveni

... Respondents

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to direct the learned Principal District and Sessions Judge, (Special Court for Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Ramanathapuram District, to accept the surrender of the petitioner and consider the petitioner bail application and grant bail on the date of surrender itself in Crime No.21 of 2018 on the file of the second respondent.

For Petitioners : Mr.J.Lawrance

For R-1 & R-2 : Mr.Prabu Ramachandran,
Government Advocate (Crl.Side)

O R D E R

This Criminal Original Petition has been filed by the petitioner to direct the learned Principal District and Sessions Judge, (Special Court for Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Ramanathapuram District, to accept the surrender of the petitioner and consider the petitioner's bail application and grant bail on the same day.

2.Heard Mr.J.Lawrance, the learned counsel appearing for the petitioner and Mr.Prabu Ramachandran, the learned Government Advocate (Crl.Side) appearing for the first and second respondents.



3.The learned counsel appearing for the petitioner has submitted that the petitioner is working as constable and the husband of the defacto complainant also working as constable. He further submitted that both the families are residing in the police quarters and due to some previous enmity, the defacto complainant gave a false complaint against the petitioner and hence the learned Principal District and Sessions Judge (ST/ST), may be directed to accept the surrender of the petitioner and consider the bail application and dispose of the same on the same day.

4.The learned Government Advocate (Crl.Side) has submitted that the victim is aged about 10 years and since the petitioner misbehaved with the said victim, a case has been registered in Crime No.21 of 2018 for the offences punishable under Sections 9(a)(i) and 9(m), 10, of POCSO Act, 2012 and Section 506(1) of I.P.C., and subsequently, the case was altered into under Sections 9(a)(i), 9(m), 10 of POCSO Act 2012, and 506(i) of I.P.C., and Section 3(1)(w)(i) of SC/ST (POA) Act. He further submitted that since the allegation against the petitioner is a very serious one and further the SC/ST Act also would attract, in view of the amendment made in the SC/ST Act, this Court cannot pass order to direct the Special Court to consider the bail application and dispose of the same on the same day.

5.In this context, it would be relevant to refer a decision in Reference Case No.1 of 2017, dated 28.04.2017, wherein, a Honourable Division Bench of the Madras High Court, in paragraph No.56 of the judgment has held as follows:

"56.If the act of the accused is an offence under the POCSO Act and also an offence under the SC & ST Act, the Special Court under the POCSO Act alone shall have jurisdiction to exercise all the powers including the power to remand the accused under Section 167 of the Code, to take cognizance of the offences either on a police report or on a private complaint and to try the offender. The said Special Court shall have jurisdiction to grant all the reliefs to the victim for which the victim is entitled to under the SC & ST Act."

6.In view of the aforesaid decision, the Special Court under the POCSO Act alone shall have jurisdiction to try the offences both under the POCSO Act and SC & ST Act. Further, in view of the amendments made in the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, this Court is of the view that the usual directions that were issued by this Court cannot be issued routinely in all cases. Therefore, the petitioner is directed to surrender before the Special Court under the POCSO Act (Mahila Court), Ramanathapuram District and file a bail petition within a period of two weeks from the date of receipt of a copy of this order and on such surrender and filing of the bail petition the learned Judge, Special Court under the POCSO Act (Mahila Court),



Ramanthapuram District, is directed to deal with the matter, on merits and in accordance with law, after issuing notice to the defacto complainant/victim under Section 15 (A) of the SC/ST Act.

7. With the above direction, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

1. The Judge, Special Court under the POCSO Act (Mahila Court),
Ramanthapuram District.
2. The Deputy Superintendent of Police,
O/o. The Deputy Superintendant of Police,
Ramanathapuram District.
3. The Inspector of Police,
Rameswaram Town Police Station,
Ramanathapuram District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC TO M/S.J.LAWRANCE, ADVOCATE, SR NO.52547

CRL.O.P.(MD)No.2916 of 2018
01.03.2018

das

MS/SKN-RSK/SAR-3/13.03.2018/3P.6C