



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.04.2018

CORAM:

THE HONOURABLE MRS.JUSTICE R.THARANI

WEB COPY

CRL.A.(MD)No.179 of 2018

Arun

... Appellant/Petitioner

Vs.

1.The Deputy Superintendent of Police,
Nilakottai,
Dindigul District.

2.State represented by its
The Inspector of Police,
Batlagundu Police Station,
Dindigul District.
(Crime No.767 of 2004)

... Respondents/ Complainants

3.P.Senthil @ Sengathir Valavan

... Respondent /
De-facto Complainant

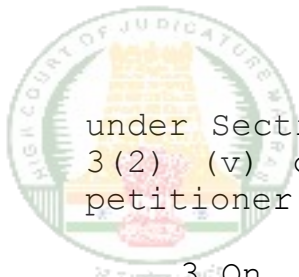
PRAYER: Criminal Appeal is filed under Section14(A) (2) of the Scheduled Caste / Schedule Tribes (Prevention of Atrocities) Amendment Act, 2015, to set aside the order of the learned Principal District and Sessions Judge, Dindigul in Crl.M.P.No.890 of 2018 dated 07.04.2018 and enlarge the petitioner on bail in Special S.C.No.208 of 2009 on the file of the learned Principal District Sessions Judge, Dindigul.

For Appellant : Mr.M.Jegadeesh Pandian
For R-1 and R-2 : Mr.Sumbulinga Bharathi
Government Advocate (Criminal Side)

J U D G M E N T

This appeal has been filed against the dismissal order passed by the learned Principal District and Sessions Judge, Dindigul in Crl.M.P.No.890 of 2018 dated 07.04.2018 in Special S.C.No.208 of 2009.

2.The case of the prosecution is that on 09.10.2002 at about 10.00 pm, due to previous motive, the petitioner along with other accused persons, unlawfully assembled with deadly weapon and wrongfully restrained the defacto complainant namely, Senthil @ Sengathirvelan, who belongs to Scheduled Caste and with an intention to murder him, assaulted him with aruval on his head and also abused him in filthy language and insult him using his caste name. Hence, the respondent police has registered a case in crime No.767 of 2018



under Sections 147, 148, 341, 323, 324 and 307 IPC read with 3(1)(x) 3(2) (v) of SC/ST Act in Batlagundu police station against the petitioner.

3. On the side of the appellant, it is stated that the petitioner is an accused and he was regularly appearing before the Court. However, due to his non appearance on 22.12.2014, Non Bailable Warrant was issued and the petitioner has surrendered himself on 23.03.2018 and was remanded to judicial custody and he is in custody for the past sixteen days. It is further stated that the case is pending in S.C.No.208 of 2009 and A1 and A5 were absconding from the beginning. As the lower Court failed to consider the case of the petitioner, he has approached this Court by filing this appeal.

4. On the side of the respondent, it is stated that his case is pending for the past 8 years and only after four years from the date of issuance of NBW, the petitioner has surrendered himself. Hence, he prayed for the dismissal of this Criminal Appeal.

5. I have considered the above submissions and perused the records.

6. It is seen that the occurrence took place in the year 2004 and the case was committed to the Principal Sessions Court and was taken on file in S.C.No.208 of 2009. It is seen that two more accused are absconding. In the circumstances, the lower Court cannot dispose of the matter, at this stage.

7. Therefore, the trial Court is directed to split up the case of the absconding accused and to proceed with the trial against the this accused.

8. In the result, this Criminal Appeal is allowed the order passed in CrI.M.P.No.890 of 2018 in Special S.C.No.208 of 2009 on the file of the learned Principal District and Sessions Judge, Dindigul, dated 07.04.2018 is set aside and the appellant/petitioner is ordered to be released on bail on his executing 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 Principal District and Sessions Judge, Dindigul and on further condition that:

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

(ii) On release, the appellant / accused No.3 shall report before the respondent Police at 10:30 a.m., in the morning and 05:30 p.m., in



the evening for a period of four weeks and thereafter, as and when required by the respondent police for interrogation.

(iii) the appellant / accused No.3 shall not tamper with evidence or witness either during investigation or trial.

(iv) the appellant / accused No.3 shall not abscond either during investigation or trial.

(v) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the appellant / accused No.3 in accordance with law as if the conditions have been imposed and the appellant / accused No.3 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 (CO)

/True Copy/

Sub Assistant Registrar

To

- 1.The Principal District Sessions Judge,
Dindigul.
- 2.The Deputy Superintendent of Police,
Nilakottai, Dindigul District.
- 3.The Inspector of Police,
Batlagundu Police Station,
Dindigul District.
- 4.The Officer Incharge,
Sub Jail, Dindigul.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

CRL.A. (MD) No.179 of 2018
13.04.2018