

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****RESERVED ON: 17.04.2018****DELIVERED ON : 24.04.2018**

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CORAM:**THE HONOURABLE MRS. JUSTICE R. THARANI****Cr1.A.(MD)No.170 of 2018**

S.Maharaja

... Appellant

Vs.

1.State rep. By,
The Assistant Commissioner of Police,
Tirunelveli City.

2.The Sub-Inspector of Police,
Palayamkottai Police Station,
Crime No.40 of 2018

3.Vasanthi

... Respondents

PRAYER: Criminal Appeal is filed under Section 14(A)(1) of the Scheduled Caste/Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 1/2016, to set aside the order dated 23.03.2018 passed in Cr1.M.P.No.777 of 2018, on the file of learned II Additional District and Session Judge, Tirunelveli and enlarge the appellant on bail.

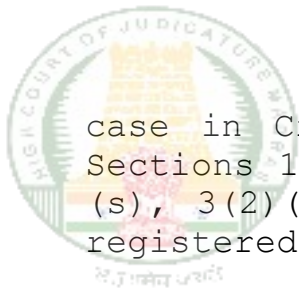
For Appellant	: Mr.S.Senthil Sankara Nathakumar
For Respondents 1&2	: Mr.K.Suyambu Linga Bharathi, Government Advocate (Cr1. Side)
For Respondent No.3	: Mr.D.Venkatesh

JUDGMENT

Heard Mr.S.Senthil Sankara Nathakumar, learned counsel appearing for the appellant, Mr.K.Suyambu Linga Bharathi, Government Advocate (Cr1. Side) learned counsel appearing for the respondents 1 and 2 and Mr.D.Venkadesh, learned counsel appearing for the third respondent.

2.This appeal has been filed against the order passed by the learned II Additional District and Sessions Judge, Tirunelveli dated 23.03.2018 in Cr1. M.P.No.777 of 2018.

3.The alleged offence against the appellant is that on 21.01.2018, the accused kidnapped the deceased and murdered him. A



case in Crime No.40 of 2018 under Section 364 IPC altered into Sections 147, 148, 294(b), 302, 201 IPC and Sections 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST (POA) Act as amended by Act 2015 has been registered against the appellant .

4. On the side of the appellant , it is stated that the name of the appellant did not find place in the FIR and the appellant was impleaded in the case only on the basis of the confession of the co-accused. The accused is in custody from 23.01.2018. The appellant is impleaded as owner of the vehicle bearing Registration No.TN-72-F-9627 which was involved in the occurrence but in fact the vehicle originally belong to one Perumal, who is not arrayed as an accused in this case.

5. On the side of the respondent, it is stated that the offence under Section 364 IPC was altered into Sections 147, 148, 294(b), 302, 201 IPC and Sections 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST (POA) Act as amended by Act 2015. Totally there are 10 accused. Four are named in the FIR and on confession of the co-accused, the appellant is impleaded in the case. The part of the appellant in the occurrence is that he assaulted the deceased, the deceased died on the spot and to screening the offence, the body of the deceased was taken in the auto and was disposed in a river. It is further stated that the investigation is pending and he objected the release of the petitioner.

6. On the side of the third respondent, it is stated that A4 and A6 are friends. A4 is the friend of A1. The appellant was impleaded in the petition as A6.

7. Records perused. From the records it is seen that the appellant is working as a CRPF Police and he was posted in West Bengal who was on leave for 10 days for Pongal Festival. It is also seen that the name of the appellant is not in the FIR. On the side of the appellant, it is claimed that the vehicle involved in the offence belong to one Perumal and it does not belong to the appellant. The appellant is in custody for past 80 days.

8. In fine, the Criminal Appeal is allowed and the Appellant is ordered to be released on bail, subject to the following conditions:

- (i) each of the appellant 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 II Additional District and Sessions Judge, Tirunelveli



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

(iii) On release, the appellant shall stay at Tirunelveli and sign before the Palayamkottai Police Station twice a day daily at 10:30 a.m., in the morning for a period of four weeks and thereafter, as and when required by the respondent police for interrogation.

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

(v) the appellant 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 in accordance with law as if the conditions have been imposed and the appellant 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 II Additional District and Sessions Judge,
Tirunelveli.

2.The Assistant Commissioner of Police,
Tirunelveli City.

3.The Sub-Inspector of Police,
Palayamkottai Police Station,
Tirunelveli.



4.The Jailor, Central Prison, Palayamkottai.

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

+1. C.C. to M/S.S.SENTHIL SANKARA NATHA KUMAR, Advocate,
SR.No.63010.
+1. C.C. to M/S.D.VENKATESH, Advocate, SR.No.63120.

Cr1.A. (MD) No.170 of 2018
24.04.2018

SDS/CM:VR/GSR/24.04.2018/4P/8C