



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.04.2018

CORAM :

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THE HONOURABLE DR.JUSTICE R.THARANI

Crl.A.(MD).No.178 of 2018

C.Nagaraj

...Appellant/Sole Accused

Vs.

1.State represented by
The Deputy Superintendent of Police,
Aundipatti Sub-Division,
Theni District.

2.The Inspector of Police,
Aundipatti Police Station,
Theni District.
(Crime No.727 of 2017)

... Respondents/ Complainants

3.Muthumanikandan

...3rd Respondent/ Defacto Complainant

PRAYER: Criminal Appeal filed under Section 14A (2) of SC/ST (POA) Act, 1989, and Amended by Act 1/2016, to call for the entire records relating to order dated 07.04.2018 in Cr.M.P.No.1082 of 2018 on the file of the learned Principal District and Sessions Judge, Theni and set aside the same as arbitrary and consequently, to release the petitioner on bail in connection with Crime No.727 of 2017 on the file of the second respondent Police.

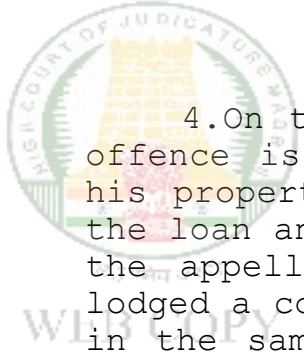
For Petitioner : Mr.R.Shankar Ganesh
For R1 & R2 : Mr.K.Sumbulinga Bharathi
Government Advocate (Crl.Side)

ORDER

Heard Mr.R.Shankar Ganesh, learned counsel for the petitioner and Mr.K.Sumbulinga Bharathi, learned Government Advocate (Crl.Side) appearing for the first and second respondents.

2.This petition is filed against the order passed in Cr.M.P.No.1082 of 2018 on the file of the learned Principal District and Sessions Judge, Theni refuting the bail petition filed by the petitioner.

3.The case was registered against the petitioner under Section 147, 148, 306(1) of IPC and Sections 3(1) (r), 3(1) (s) and 3(2) (va) of SC/ST (POA) Amendment Act.



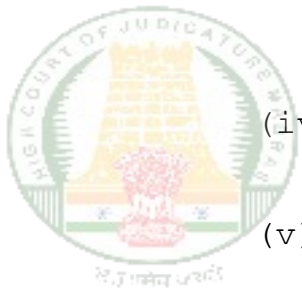
4. On the side of the petitioner, it is stated that the alleged offence is that the defacto complainant obtained loan by pledging his property, from the appellant's son and he was regularly repaid the loan and during this transaction, there was some dispute between the appellant's son and the defacto complainant. The complainant lodged a complaint against the petitioner's son and his son indulged in the same offence and this case was registered. He has further stated that the defacto complainant never owned any property. The defacto complainant's mother executed a sale deed in favour of the appellant's second son and now, the defacto complainant demanded more sale consideration and the same was refused by the appellant's family and hence the defacto complainant lodged a complaint against the appellant. It is stated that no one is injured and no offence is being committed.

5. On the side of the respondent it is stated that the petitioner and six unnamed persons indulged in the occurrence on 06.09.2017 and the similar offence was recorded in Crime No.219 of 2016 on 25.05.2016 and the petitioner indulged in similar offences again and again and investigation is still pending.

6. Records perused. From the records, it is clear that there is a dispute regarding the property between the complainant and the appellant. Instead of settling their dispute through civil forum criminal cases are being filed. In the circumstances of the case, there is no possibility for the appellant to run away from the clutches of law. Therefore, this Court is of the view that it will be in the interest of justice, if bail is granted to the appellant, however, subject to certain conditions.

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

- (i) appellant / accused 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 Principal District & Sessions Judge, Theni.
- (ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Principal District & Sessions Judge, Theni, may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity.
- (iii) On release, the appellant / accused shall report before the respondent police at Police Station twice a day daily 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.



- (iv) the appellant / accused shall not tamper with evidence or witness either during investigation or trial.
- (v) the appellant / accused shall not abscond either during investigation or trial.

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(vi) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the appellant / accused in accordance with law as if the conditions have been imposed and the appellant / accused 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 (T&P)

/True copy/

Sub Assistant Registrar

To

1. The Deputy Superintendent of Police,
Aundipatti Sub-Division,
Theni District.
2. The Inspector of Police,
Aundipatti Police Station,
Theni District.
3. The Superintendent of Police,
Central Prison, Madurai.
4. The Principal District and Sessions Judge,
Theni.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC TO M/S.R.SHANKAR GANESH, ADVOCATE, SR NO.61020

Cr1.A.(MD).No.178 of 2018

11.04.2018

das

MS/SV-MMS/SAR-4/16.04.2018/3P.7C