



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.04.2018

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE R.THARANI

Cr1. A.(MD)No.180 of 2018

Harris Rollingson

.. Appellant/Accused No.7

Vs.

1.The State represented through

The Assistant Commissioner of Police (Law & Order),
O/o.the Assistant Commissioner of Police (Law & Order),
Payalamkottai Sub Division,
Tirunelveli.

2.The State represented through

The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli City.

(In Crime No.374 of 2017)

... Respondents/Complainants

3.Vinoth Kumar

... Respondent/Defacto Complainant

Prayer : This appeal is filed under Section 374 of Criminal Procedure Code read with 14A(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, to call for the records and set aside the bail dismissal order of the learned II Additional District and Sessions Judge, Tirunelveli in Cr.M.P.No.711 of 2018 in S.C.No.23 of 2018 dated 07.03.2018.

For Appellant

: Mr.S.M.A.Jinnah

For R-1 and R-2

: Mr.K.Sumbulinga Bharathi

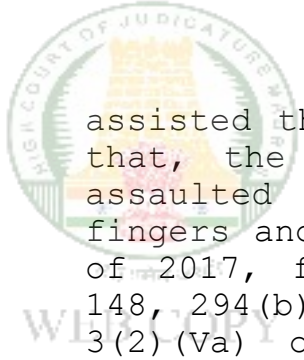
Government Advocate (Cr1.Side)

J U D G M E N T

Heard S.M.A.Jinnah, learned counsel appearing for the appellant and Mr.K.Sumbulinga Bharathi, learned Government Advocate (Criminal Side) appearing for the first and second respondents.

2.This appeal has been filed against the dismissal order in Cr.M.P.No.711 of 2018 in S.C.No.23 of 2018 passed by the learned II Additional District and Sessions Judge, Tirunelveli, dated 07.03.2018.

3. There is a money dispute between one Raja @ Rajalingam and some others. The de-facto complainant Vinoth Kumar is said to have



assisted the police for seeking to refund the amount. Aggrieved by that, the accused in this case on 17.05.2017 at about 8.00 pm assaulted the de-facto complainant and caused injuries on his fingers and left elbow. A case has been registered in Crime No. 374 of 2017, for the alleged offences punishable under Sections 147, 148, 294(b), 324, 302 and 506(ii) IPC and Sections 3(1)(r), 3(1)(s), 3(2)(Va) of SC/ST (Prevention of Atrocities) Amendment Act, as against the petitioner/appellant herein and others. The appellant/petitioner is arrayed as Accused No.7 in this case.

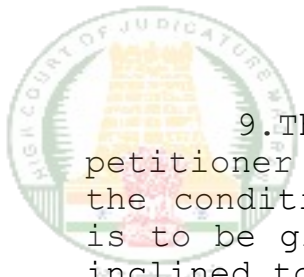
4. On the side of the appellant/petitioner, it is stated that the accused was arrested on 21.05.2017, he was released on interim bail till 24.01.2018 on some conditions in Cr.M.P.(MD)No.3165 of 2017, dated 08.12.2017 passed by the learned II Additional District and Sessions Judge, Tirunelveli,. The petitioner was granted bail on condition that he shall appear and sign before the Judicial Magistrate No.I, Vilupuram on all working days and on holidays he shall appear before the District Superintendent of Police, Vilupuram, at 10.00 am and 05.00 pm until further orders.

5. After the arrest, the appellant/petitioner was detained under the Prevention of Detention Act and he obtained bail on 18.01.2018. He was not informed about the bail conditions, since the bail application was filed by the Legal Aid counsel. The Trial Court issued Non Bailable Warrant to the petitioner on 30.01.2018 and hence, he was remanded to judicial custody on 03.02.2018. A charge sheet was already been filed in S.C.No.23 of 2018 before the II Additional District Judge, Tirunelveli. It is further stated that the petitioner was not able to utilise the bail order as he was detained under Act 14, 1982 and he appeared before the learned Judicial Magistrate, Tirunelveli and in another case he was in custody for the past one year and prayed that the order of dismissal may be set aside.

6. On the side of the respondents it is stated that the offence against the appellant/petitioner is under Section 302 IPC. There are 12 accused in the case. The appellant/petitioner is arrayed as Accused No.9. He was in custody from 21.05.2017 and was released on bail 08.12.2017, but, the appellant/petitioner failed to comply with the condition even for one day Hence, Non Bailable Warrant was issued and the appellant/petitioner was arrested therefore oppose granting of bail to the appellant.

7. Records perused.

8. It is stated that the Legal Aid counsel appearing for the appellant/petitioner obtained bail for the petitioner. It is further stated that the counsel did not inform about the conditions to be complied with, to the appellant/petitioner. Though the appellant/petitioner obtained bail order on 08.12.2017 itself and due to non production of surety he was released only on 21.01.2018.



9. The reason for default is stated that since the appellant/petitioner was not aware of the condition, he was not able to comply the condition. Hence, this Court is of the view that an opportunity is to be given to the appellant/petitioner and hence, this Court is inclined to release the accused on bail with certain conditions.

WEB COPY

10. In the result, this Criminal Appeal is allowed, the order dated 07.03.2018 passed by the learned II Additional District and Sessions Judge, Tirunelveli in Cr.M.P.No.711 of 2018 in S.C.No.23 of 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 II Additional District and Sessions Judge, Tirunelveli 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.7 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.7 shall not tamper with evidence or witness either during investigation or trial.

(iv) the appellant / accused No.7 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.7 in accordance with law as if the conditions have been imposed and the appellant / accused No.7 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/



To

1.The II Additional District and Sessions Judge,
Tirunelveli.

2.The Assistant Commissioner of Police (Law & Order),
O/o.the Assistant Commissioner of Police (Law & Order),
Payalamkottai Sub Division,
Tirunelveli.

3.The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli City.

4.The Superintendent of Prison,
Central Prison,
Palayamkottai, Tirunelveli.

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

Cr1. A.(MD)No.180 of 2018
13.04.2018

ls

JM/SV MMS/SAR 1/18.04.2018/4P/6C