



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.10.2018

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THE HON'BLE MR.JUSTICE DR.G.JAYACHANDRAN

Crl.A.(MD) No.456 of 2018

Ayyappan

...Appellant/Petitioner/
Accused No.1

Vs.

1.State: The Deputy Superintendent of Police,
Kumbakonam, Thanjavur District.

2.The Inspector of Police,
Kumbakonam West Police Station,
Cr.No.442 of 2016.

...Respondents 1 & 2

3.Ravi

...Respondents/Respondents/
Complainant

PRAYER: Criminal Appeal - filed under Section 14 A (2) of SC/ST (Prevention of Atrocities) Act, 1989, to call for the records in Cr.M.P.No.1932 of 2018 in Cr.No.442 of 2018 in S.S.C.No.6 of 2017 dated 26.09.2018 and set aside the same.

For Appellant: Mr.T.A.Ebenezer

For R1 and R2: Mr.A.Robinson

Government Advocate (Crl.Side)

ORDER

Heard the learned counsel for the appellant and the learned Government Advocate (Crl.Side) for the official respondents.

2.This appeal is filed against the dismissal of the bail petition filed by the appellant herein. The appellant herein is facing trial for the offences under Section 302 IPC r/w 3(2)(v) of SC/ST (POA) Act. Perusal of the fact indicates that the appellant was granted bail on 10.05.2018 on condition that he shall not tamper with the witnesses and shall not cause any threat to the defacto complainant family. Though bail was granted to him, he was not released on bail, in view of his detention in another connected matter in S.C.No.59 of 2018. When he got bail in that connected matter and came out from the prison after furnishing surety, it is alleged that the police has arrested him on



08.09.2018 at the entrance of the Central Prison and sent him back to prison. Hence, the bail petition in Cr.M.P.No.1932 of 2018 was filed and the same was dismissed by the trial Court for non prosecution on 26.09.2018. Aggrieved over the same, the present appeal has been filed.

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3.The learned counsel for the appellant would submit that when the Court has considered the merits of his petition and granted bail, he has been again arrested and sent back to prison without any justification.

4.The learned Government Advocate (Crl.Side) would submit that though the trial Court initially granted bail to this appellant on 10.05.2018, he was not released from prison in view of his detention in connection with another case. Meanwhile, when the trial of this case was in progress, there was a statement by the witnesses that they apprehend threat from the accused. Therefore, the trial Court while recording the evidence of P.W.4 on 04.10.2018 has directed the police to give adequate security and protection to the witnesses and also warned the accused not to indulge in intimidating the witnesses. Therefore, pointing out the conduct of the accused / appellant, the learned Government Advocate (Crl.Side) would submit that the appeal petition has to be dismissed, since the witnesses apprehend threat and if the petitioner is released on bail, there is a possibility of tampering the witness and intimidating them.

5.A perusal of the earlier bail order granted to the appellant clearly indicates that it is a condition that the petitioner should not intimidate or tamper the witnesses. However, the order passed by the trial Court directing the police to give protection to the witnesses reveals that there is danger to the life of the witnesses. Therefore in order to have a fair trial, the witnesses are bound to be protected. Since the possibility of tampering the witnesses has been expressed by the prosecution and also been recorded by the Court below, this Court is not inclined to entertain this petition. Hence, this Criminal Appeal is dismissed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS-I)

To

<https://hcservices.ecourts.gov.in/hcservices/>

1.The I Additional District and Sessions Judge, Thanjavur.



2.The Judicial Magistrate No.II, Kumbakonam.

3.The Chief Judicial Magistrate, Thanjavur.

4.The District Collector, Thiruvarur District.

5.The Superintendent of Police,
Central Prison, Trichy,

6.The Deputy Superintendent of Police,
Kumbakonam, Thanjavur District.

7.The Inspector of Police,
Kumbakonam West Police Station.

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

+ 1 CC TO MR.T.A.EBENEZER, ADVOCATE IN SR NO.88940

TA

BU/RP/SAR-1 :02.11.2018 : 3P/10C

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