



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 19.06.2018

CORAM:

THE HONOURABLE MRS. JUSTICE R. THARANI

CrI.A.(MD)No.249 of 2018

WEB COPY

1.Jack Welsley

2.Malthurai

... Appellants / Petitioners 5 & 6

Vs.

1. The Assistant Commissioner of Police,
Tirunelveli City.

2. State,
represented by Inspector of Police,
Palayamkottai Police Station,
Tirunelveli City.
(Crime No.196/2017)

...1st&2nd Respondents/Complainants

3.Veerababu

...3rd Respondent / Defacto
complainant

PRAYER: Criminal Appeal is filed under Section 14(A)(2) of the Scheduled Caste/Scheduled Tribes (Prevention of Atrocities) Amendment Act, 1 of 2016, to call for the records pertaining to the order dated 20.02.2018 made in Cr.M.P.No.452 of 2018 on the file of the learned II- Additional District and Sessions Judge, Tirunelveli and to set aside the same and enlarge the appellants on bail in connection with the Crime No.196 of 2017 on the file of the respondent police.

For Appellants : Mr.S.Deenadhayalan

For Respondents 1 and 2 : Mr.M.Chandra Sekar

Additional Public Prosecutor

For R-3

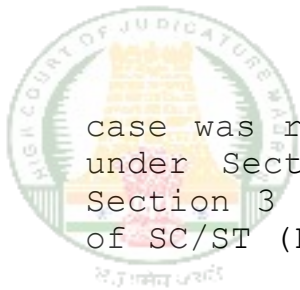
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JUDGMENT

Heard Mr.S.Deenadhayalan, learned counsel appearing for the appellants and Mr.M.Chandra Sekar, learned Additional Public Prosecutor appearing for the respondents 1 and 2.

2.This appeal has been filed against the order passed in Cr.M.P.No.452 of 2018, dated 20.02.2018, on the file of the learned II-Additional District and Sessions Judge, Tirunelveli and enlarge the appellants on bail.

3.The case of the prosecution is that on 24.02.2017, the appellants and others due to previous enmity, formed into unlawful assembly and waylaid the deceased, who was in police custody, and attacked the deceased with deadly weapons and caused his death and a



case was registered against the appellants in Crime No.196 of 2017 under Sections 147, 148, 341, 294(b), 353, 302, 506(ii) IPC r/w Section 3 of TNPPDL Act and Section 3(1) (r), 3(1)(s) and 3(2)(va) of SC/ST (POA) Act.

4. On the side of the appellants, it is stated that the appellants were arrayed as A-10 and A-15 and they are in custody from 01.03.2017 and 03.04.2017 respectively. It is stated that the appellants have moved a bail application before the learned II-Additional District and Sessions Judge, Tirunelveli in Cr.M.P.No.452 of 2018 and the same was dismissed on 20.02.2018. It is further stated that the appellants were falsely implicated in this case and were in custody for more than 1 ½ years. Final report in the case was already filed and the same was taken on file in S.C. No.93 of 2017. The allegation against the appellants is that they participated in an unlawful assembly. There is no specific overt act against the appellants and the name of the appellants are not found place in the F.I.R. and hence, the appellants prayed to be released on bail.

5. On the side of the respondents, it is stated that it is a brutal murder. The deceased was in the custody of police, when the police escorted the deceased to the Court and taking him again to the Prison, the appellants and others, in the presence of the escort police and in the presence of the Complainant committed brutal murder of the deceased, who was in police custody. A-10 is having one more previous case and prayed the appeal may be dismissed.

6. Records Perused.

7. The specific overt act attributed against A10, is that he handed over the vehicle for the use of the accused, the specific overt act attributed against A-15 is that he damaged the police vehicle. The offence against these accused is that they committed day light murder of the deceased, who was in police custody and they threatened the police with dire consequences and then damaged the police vehicle. It is stated that the appellants were detained under Act 14 and the detention order was set aside by this Court.

8. Considering the nature of the offence and considering the fact that offence is a day light murder in the presence of police personnel while the deceased is in the police custody and considering the possibility for another retaliation murder, this Court is of the view that the appeal is liable to be dismissed at the present stage. Hence, this Criminal Appeal is dismissed.

Sd/-
Assistant Registrar (CS-II)

/True Copy/



To

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

2. The Assistant Commissioner of Police,
Tirunelveli City.

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

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

5. The Section Officer,
Criminal Section, (2 Copies)
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.S.Deenadhayalan, Advocate in SR. No.68727

ls

MK/SB/SAR 3/04.07.2018/3P/8C

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