



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Criminal Appeal (MD) No.497 of 2018

Harimurugan

... Appellant/Sole Accused

Vs.

1.State represented by,

The Assistant Commissioner of Police,
All Women Police Station,
Madurai Town.

2.State represented by,

The Inspector of Police,
All Women Police Station (North),
Tallakulam Police Station,
Madurai City,
In Crime No.52/2018.

... Respondents/Complainants

3.Anushya Devi

... 3rd Respondent/De facto Complainant.

PRAYER : Criminal Appeal is filed under Section 14 (A) (2) of SC/ST (POA) Act, 1989 and amended by Act 1 of 2016, to call for the entire records relating to the order dated 17.10.2018 in Cr.M.P.No.1063 of 2018 on the file of the learned III Additional District Judge (PCR), Madurai and to set aside the same as arbitrary and consequently, to release the appellant / sole accused on bail in connection with Crime No.52 of 2018 on the file of the second respondent police.

For Appellant : Mr.S.Senthil Kumar

For R1 & R2 : Mrs.S.Bharathi

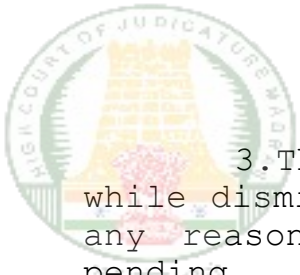
Government Advocate (Cr1.side)

For Respondent No.3 : No Appearance

JUDGMENT

This criminal appeal is filed to set aside the order dated 17.10.2018 in Cr.M.P.No.1063 of 2018 on the file of the learned II Additional District Judge (PCR), Madurai.

2.Heard the learned counsel appearing for the appellant and the learned Government Advocate (Cr1.side) appearing for the first and second respondents. Notice ordered to the third respondent was awaited.



3.The learned counsel for the appellant would submit that while dismissing the bail order, the Special Court has not assigned any reason and the only reason given is that investigation is pending. The allegations levelled against the appellant have not fallen any one of the ingredients either under Section 375 IPC or Section 3(2) (V) of SC/ST Act.

4.The learned Government Advocate (Crl.side) for the respondents 1 and 2 would submit that there is a specific overt-act against the appellant. She would further submit that the offence committed by the appellant will attract Sections 375 IPC and Section 3(2) (V) of SC/ST Act. She would further submit that the investigation is at preliminary stage.

5.The allegation against the appellant is that he made a false promise and made sexual intercourse with the third respondent. This Court is of the view that the ingredient of the offence as alleged by the prosecution whether the ingredients of 375 IPC or 3 (2) (V) of the SC/ST Act will attract it, or no can be decided only after completion of the investigation. Now, it is premature to say the same. Considering the serious nature of the offence and the investigation is yet to be completed, this criminal appeal is dismissed confirming the order passed by the learned III Additional District Judge (PCR), Madurai.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-II)

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To

1.The III Additional District Judge(PCR)
Madurai.

2.The Assistant Commissioner of Police,
All Women Police Station,
Madurai Town.

3.The Inspector of Police,
All Women Police Station (North),
Tallakulam Police Station,
Madurai City,



4. The Superintendent of Central Prison,
Madurai.

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

CRIMINAL APPEAL (MD) No. 497 of 2018

NM/RP/SAR II/15.11.18/3P/6C