



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2018

CORAM

**THE HON'BLE Mr. JUSTICE P.VELMURUGAN**

CrI.A. (MD) No.511 of 2018

WEB COPY

Balamurgan, S/o.Ramasamy

.. Appellant/Accused

vs.

1. The Deputy Superintendent of Police,  
Theni Sub-Division,  
Theni Taluk,  
Theni District.

2. The Inspector of Police,  
Veerapandi Police Station,  
Theni Taluk, Theni District.  
[Crime No.368/2018]

.. Respondents 1& 2/Complainant

3. Minor Savithri, D/o.Malaisamy  
Rep. through her mother Alagammal

.. 3<sup>rd</sup> Respondent/  
De-facto complainant

Criminal Appeal filed under Section 14-A(2) of SC/ST (POA) Act, 1989 & Amended Act No.1 of 2006, to call for the entire records relating to the order dated 23.10.2018, passed in Cr.M.P.No.1154 of 2018 on the file of the Principal District and Sessions Court, Theni and set aside the same as arbitrary and consequently, to release the appellant on bail in connection with Crime No.368/2018 on the file of the second respondent police.

For Appellant : Mr.R.Shankar Ganesh

For R1 and R2 : Mrs.S.Bharathi  
Government Advocate  
(Criminal side)

#### ORDER

This Criminal Appeal has been filed to set aside the order dated 23.10.2018, passed in Cr.M.P.No.1154 of 2018, on the file of the Principal District and Sessions Court, Theni and consequently, to release the appellant on bail in connection with Crime No.368/2018, on the file of the second respondent police.

2.The respondents 1 and 2 registered a case in Crime No.368 of 2018 against the appellant for the offences punishable under Sections 417 and 506(i) IPC and Section 6 of the Protection of Child from Sexual Offences Act, 2012 and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 and Section 3(2)(v) of the SC/ST (Prevention of Atrocities) Act, 1989. In connection with the said case, the appellant was arrested on 06.09.2018 and therefore, he filed a petition seeking bail before the learned Principal District and Sessions Judge, Theni. After hearing arguments, the learned



Principal District and Sessions Judge dismissed the said application. Against the said order of dismissal, the petitioner has filed the present appeal.

3. The learned counsel for the appellant submitted that due to love affairs, the respondents 1 and 2 registered a false case against the appellant and no offence was committed by him as alleged by the prosecution and he is in custody for more than 70 days. Further, there is no overt act against the appellant. The said fact was not considered by the learned Principal District and Sessions Judge and hence, the order passed by the learned Principal District and Sessions Judge is liable to be set aside.

4. The learned Government Advocate (Criminal side) appearing for the respondents 1 and 2 submitted that the appellant promising to marry the victim girl, had sexual intercourse with her and thereafter, refused to marry her and also scolded her with filthy language and humiliated her in the name of caste and therefore, she filed the complaint. Based on the said complaint, the respondents 1 and 2 registered the case in Crime No.368 of 2018 and there is overt act against the appellant and therefore, the learned Principal District and Sessions Judge, Theni, dismissed the bail application filed by the appellant.

5. I have heard the learned counsel appearing for the parties and perused the materials on record.

6. The allegations against the appellant is that he promised to marry the victim girl and had sexual intercourse with her and subsequently, when the de-facto complainant asked to marry her, he refused to marry her and also abused and insulted her in the name of caste and therefore, left with no other option, she has filed the complaint with the respondents 1 and 2.

7. From the complaint, it is seen that there are allegations against the appellant and there is also overt act alleged against him and the investigation is not completed and the charge sheet is yet to be filed. In such situation, if the appellant is released on bail, there would be a possibility of tampering the witnesses and threatening to the de-facto complainant. Therefore, under these circumstances, this Court does not find any infirmity in the order passed by the learned Principal District and Sessions Judge, Theni.

8. Considering the facts and circumstances of the case, the allegations levelled against the appellant which are serious in nature and also considering the stage of investigation, this Court is not inclined to allow the appeal and accordingly, it is dismissed.

Sd/-

Assistant Registrar(CO)

Sub Assistant Registrar(CS-II)



To

1. The Principal District and Sessions Judge,  
Theni.

2. The Deputy Superintendent of Police,  
Theni Sub-Division,  
Theni Taluk,  
Theni District.

3. The Superintendent, Central Prison  
Madurai.

4. The Inspector of Police,  
Veerapandi Police Station,  
Theni Taluk, Theni District.

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

+1cc to Mr.R.Shankar Ganesh, Advocate Sr.No.96444

SMN2

KM/BK/SAR3/10.12.2018/3P/7C

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