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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 20.09.2018

DELIVERED ON : 05.10.2018

CORAM:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.A(MD)No.403 of 2018

C.Ravi

.. Appellant/Petitioner/
Accused No.32

Vs.

1. The State through the
Deputy Superintendent of Police,
Manamadurai Sub-Division,
Sivagangai District.

.. Respondent /
Investigating Officer

2. The State rep by
The Inspector of Police,
Pazhayanoor Police Station,
Sivagangai District.
(in Crime No.32 of 2018)

.. Respondent/Complainant

3. Maheswaran

.. Victim/de facto
Complainant

4. Malaichamy

5. Dhanasekaran

6. Chandrasekaran

7. Deivendran

.. Respondents/Victims

Prayer: Criminal Appeal filed under Section 14A(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 as amended by Act 1 of 2016 and 439 of Cr.P.C., to call for the records pertaining to the order dated 11.08.2018 made in Cr.M.P. No.3085 of 2018 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, 1989, Sivagangai and to set aside the same and enlarge the appellant on bail in connection with Crime No.32 of 2018 on the file of the respondent police.



For Appellant : Mr. K. Anbarasan
For R1 & R2 : Mr. K. Chellapandian,
Additional Advocate General
Assisted by:
Mr. A. Robinson,
Government Advocate (Crl. side)
For R3 : Mr. G. Bhagavath Singh

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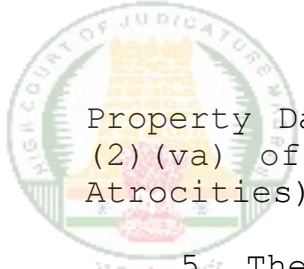
JUDGEMENT

This Criminal Appeal is filed by one of the accused facing trial in Special Case No.32 of 2018 before the Special Court for Exclusive trial of cases under SC/ST (POA) Act, 1989, Sivagangai. The brief facts leading to the present bail petition are as below:-

2. Katchanatham Village of Manamadurai Taluk at Sivagangai District is a small hamlet, mostly inhabited by people belonging to the Schedule Caste (SC) community. One family of this hamlet and villagers surrounding this hamlet belong to other community. It appears that there was a personal feud between that one family, belonging to the non-SC Community and the members of the SC Community.

3. On 31.07.2017, the members of the SC Community have given a complaint to the District Collector, alleging that Suman, son of Chandrakumar, is causing disturbance to the members of the SC Community and they are threatening their lives. They have made a specific allegation of events which had taken place in the village on 02.07.2017, 17.07.2017, 18.07.2017 and 29.07.2017 which are cause for their fear. The said representation was given to the District Collector seeking protection for their lives and properties by one Mr. M. Sundaram and nine other villagers. It appears that, thereafter, when the temple festival was conducted on 25.05.2018, Chandrakumar of non-SC community had picked a quarrel with one Shanmuganathan of SC Community. As a result, on 26.05.2018, Shanmuganathan has lodged a complaint against Chandrakumar and others. Consequently, Chandrakumar was enquired by the police.

4. The case under consideration is in respect of the unfortunate event which had taken place on 25.05.2018 at about 09.00 p.m. As per the F.I.R., a case was registered based on the complaint given by Maheswaran, son of Bhominathan. On 28.05.2018, 17 named accused and others armed with deadly weapons attacked Shanmuganathan, Arumugam, Dhanasekaran and others. The roof of the victim's residence was damaged by the mob. The said clash has resulted in the death of three persons and injuries to five others, besides damage to the properties of the SC community people. A case has been registered against 17 named persons and other unknown persons on 29.05.2018 at 05.00 hrs for offence under Sections 147, 148, 294(b), 324, 307 and 302 I.P.C. and Section 3 of Public



Property Damage and Loss Act, 1992 and Section 3(1)(r), 3(1)(s), 3(2)(va) of the Schedule Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

5. The appellant herein is arrayed as accused No.32. According to the learned counsel for the appellant, he is an innocent person and he has been falsely implicated in the final report based on the statement of the witnesses.

6. Learned Additional Advocate General appearing on behalf of the State filed the counter affidavit and would submit that this appellant actually participated in the crime with deadly weapon and caused damage to the house of the victim.

7. The counsel appearing for the victim would submit that the tension is still prevailing in the village and if the appellant is released on bail, he would tamper the witnesses and threaten the lives of the witnesses and taking note of the brutal attack on the victim, the petitioner should not be released on bail.

8. Heard the learned counsel for the appellant, learned Additional Advocate General for the State and learned counsel appearing for the victim and perused the bail petition impugned and counter affidavit filed by the State.

9. The overtact attributed to this appellant is causing damage to the house roof. His name is arrayed based on the statement of witnesses. Considering the rival submissions, statements and balancing the public interest *vis a vis*, the personal liberty of the appellant and overtact attributed to this appellant, this Court is of the opinion that this appellant may be released on bail. Accordingly, this Criminal Appeal is allowed on the following conditions:

(i) the appellant/accused 32 shall be enlarged on bail, by executing a bond for Rs.10,000/- (Rupees Ten Thousand only), with two sureties, one must be a close blood relative, for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, 1989, Sivagangai;

(ii) he will report before the Curator, Mahatma Gandhi Museum, Madurai, on the first **Wednesday** of every English calendar month at 10.00 am., and stay at Gandhi Museum till 05.00 pm., to learn the teaching of Mahatma.

(iii) he shall not enter his village till the disposal of the trial on any account and he shall participate in the trial without fail.

(iv) he shall not tamper with investigation or trial;



(v) on breach of any of the aforesaid conditions, the learned trial Judge is entitled to take appropriate action, as if the conditions have been imposed and the appellant released on bail by the trial Judge himself as laid down by Hon'ble Supreme Court in **P.K.Shaji vs State of Kerala** in **2005 AIR SCW 5560**.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

1. The Sessions Judge,
Special Court for Exclusive Trial of Cases
under SC/ST (POA), Act, 1989, Sivagangai.
2. The Deputy Superintendent of Police,
Manamadurai Sub-Division,
Sivagangai District.
3. The Inspector of Police,
Pazhayanoor Police Station,
Sivagangai District.
4. The Superintendent of Central Prison, Madurai.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy To:-

The Curator,
Mahatma Gandhi Museum, Madurai.

- + 1 CC TO Mr.G.BHAGAVATH SINGH, ADVOCATE IN SR No. 89232
- + 1 CC TO Mr.K.ANBARASAN, ADVOCATE IN SR No. 89026

STS
TE/RSK/SAR-4 : 09/10/2018 : 4P/9C

Judgment in
Crl.A(MD) No.403 of 2018
05.10.2018