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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

Cr1.A(MD)No.427 of 2018

Davadu @ Karthick

.. Appellant/Accused rank not known

Vs.

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

.. Respondent/Complainant

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

.. Respondent/Complainant

3.Maheswaran

.. Respondent/ *de facto*
Complainant

4. Malaichamy
5. Dhanasekaran
6. Deivendran
7. Sukumaran

.. 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, to set aside the order passed in Cr.M.P.No.3262 of 2018 dated 06.09.2018 by the Special Court for exclusive trial of cases under SC/ST POA Act, 1989, Sivagangai and to enlarge the petitioner/accused on bail in connection with the case in Crime No.32 of 2018 on the file of the respondent police.

For Appellant :Mr.T.Kumar

For R1 & R2 :Mr.K.Chellapandian,
Additional Advocate General
Assisted by: Mr.A.Robinson,
Government Advocate (Cr1.side)

<https://hcservices.ecourts.gov.in/hcservices/>
For R3

: Mr.G.Bhagavath Singh

**JUDGEMENT**

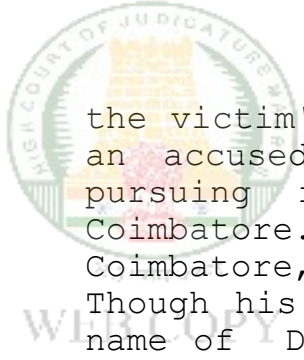
This Criminal Appeal is filed by one of the accused facing trial in Special Case No.32 of 2018 before the Special Court for Exclusive trial of cases under SC/ST (POA) Act, 1989, Sivagangai. The brief facts leading to the present bail petition are as below:-

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 Bhoominathan. 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 Davadu @ Karthick would submit that he is an innocent person and merely based on the confession statement of the co-accused, he has been implicated in the case. In the confession statement of one of the accused, it has been stated that the appellant has caused damage to the television sets and roof tiles of



the victim's properties and hence, he has been roped in the case as an accused. It is also submitted by the appellant that he is pursuing first year diploma course at Tamilnadu Polytechnic, Coimbatore. When he came to attend his sister's marriage from Coimbatore, he has been detained by the police on mistaken identity. Though his name is only Karthick, by mistaking the identity in the name of Davadu @ Karthick, he has been arrested and also detained under Act 14 of 1982 and the same was quashed by this Court in H.C.P.(MD) No.1132 of 2018 dated 02.08.2018.

6. Learned Additional Advocate General appearing on behalf of the State submitted that though in the counter affidavit filed does not advert to the allegation of mistaken identity, however, the appellant is an accused in Crime No.353 of 2017, which is under investigation. Therefore, the bail petition ought to be dismissed. Further, he submitted that and further, if the appellant is released in bail, then there is likelihood of threat to the victim's witnesses.

7. Heard the learned counsel for the appellant, learned Additional Advocate General appearing for the State and the learned counsel appearing for the victim. Perused the records placed before this Court.

8. Considering the rival submissions and on perusal of the records, it appears that the appellant herein has been arrayed as accused based on the information given by the co-accused Arunpandi @ Prasanth. The information disclosed by the co-accused indicate that the appellant has damaged the roof tiles of the victim house and television sets. Therefore, this Court is of the opinion that the appellant may be released on bail on condition so as to defend himself to prove his innocence. Hence, bail is granted and accordingly, the Criminal Appeal is allowed on the following conditions:

(i) the appellant shall be enlarged on bail on 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 **Thursday** of every English calendar month at 10.00 am., and stay at Gandhi Museum till 05.00 p.m., to learn the teaching of Mahatma.

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



(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, 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. 89230
- + 2 CC TO Mr.T.KUMAR, ADVOCATE IN SR No. 89275 & 18974

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