

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2019

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Criminal Appeal No.334 of 2009

Sathishkumar

S/o.Sathagasawndram

.. Appellant

Vs.

1. The State

Rep. by the Deputy Superintendent of Police

I/c. CBCID, Salem Range

CBCID, Namakkal.

2. Chithra

W/o.Venkatachalam

.. Respondents

* 2nd respondent was suomoto impleaded as per the order of this Court dated 17.06.2019 in Crl.A.No.334 of 2019.

Criminal Appeal preferred under Section 14A of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, to set aside the order dated 13.11.2018 made in CMP.No.1467 of 2018 in S.C.No.78 of 2016 on the file of the Principal Sessions Judge, Namakkal and enlarge the appellant on bail in connection with the case in Crime No.2 of 2015, pending trial in S.C.No.78 of 2016 on the file of the Principal Sessions Judge, Namakkal.

For Appellant : Mr.N.Manokaran

For Respondents: Mrs.Kritika Kamal.P
Government Advocate, for R1
Mr.R.Sankara Subbu
Mr.P.Sesubalan Raja, for R2

J U D G M E N T

This appeal has been preferred to set aside the order dated 13.11.2018 made in CMP.No.1467 of 2018 in S.C.No.78 of 2016 on the file of the Principal Sessions Court, Namakkal and enlarge the appellant on bail.

2. The petitioner was arrested in Crime No.2 of 2015 and during the course of investigation, he was released on bail. The police completed the investigation and filed final report and after committal, the case was taken on file as SC.No.78 of 2016 by the Principal District and Sessions Judge, Namakkal. Charges for the offences under Sections 120-B, 364, 34 r/w 109, 384, 465, 471 r/w 468, 302, 201, 212, 216 IPC r/w 3(2)(v) of the SC/ST (Prevention of Atrocities) Act, were framed against A1 to A16 and this petitioner was arrayed as A8. The trial commenced with the examination of the witnesses and it is reported that so far about 72 witnesses have been examined by the Principal District Judge, Namakkal. It is also reported that out of the 17 accused, except A1 & A2, all other accused were initially granted bail either during investigation or little later, including the petitioner herein. An unsavory incident took place on 19.12.2017, in which, A1 is said to have abused the Presiding Officer and the other accused have also tacitly supported A1. Therefore, the prosecution moved a petition in Crl.MP.No.1440 of 2017 in S.C.No.78 of 2016 seeking cancellation of bail. The said petition was allowed by the Trial Court on 07.06.2018 and the bail of all the accused including that of the petitioner was cancelled. On 07.06.2018, all the accused except A1 conducted a short dharna before the Trial Court demanding free copies of tamil translation of the cancellation of bail order. After the intervention of the Principal District Judge and other Officials, the crowd was cleared. Thereafter, the petitioner and one Ragu and one Ranjith filed a fresh bail application in Crl.MP.No.1467 of 2018 before the Trial Court, which was dismissed on 13.11.2018, aggrieved by which, this appeal has been preferred.

3. Heard Mr.N.Manokaran, learned counsel for the petitioner/Accused, Mrs.Kritika Kamal.P, learned Government Advocate for the first respondent-State and Mr.R.Sankarasubbu and Mr.P.Sesubalan Raja, learned counsels for the second respondent/De facto Complainant.

4. The allegations in the charge sheet is that one Gokulraj was a Dalit and that he was in love with another caste Hindu girl viz., Swathi, on coming to know of which, the accused had allegedly abducted Gokulraj and his body was found near a Railway track with severed head. Since the case evoked public outcry, it was transferred to the CBCID, Namakkal, pursuant to which, 16 persons are facing trial as stated above.

5. Mr.N.Manoharan, learned counsel for the petitioner took this Court through the allegations in the final report and submitted that even according to the prosecution, the petitioner had only accompanied the co-accused in a car, in which, the

deceased Gokulraj was detained. He further contended that when the parties reached a Hillock, the petitioner got down from the vehicle and thereafter, he did not know as to what happened to Gokulraj at the hands of the other accused. He further contended that the petitioner was enjoying bail for 3 1/2 years and that his bail was cancelled only on 07.06.2018, on account of unsavory incident that was created by A1 and that, immediately after two days, the petitioner sent an apology letter to the Trial Court, regretting for the said incident.

6. On the contrary, the learned Government Advocate for the first respondent and Mr.R.Sankarasubbu and Mr.P.Sesubalan Raja, learned counsels for the second respondent/De facto Complainant submitted that the accused have been preventing the Trial Court from proceeding with the trial by creating ruckus in the Court Hall and therefore, this Court has transferred the trial from Namakkal to Madurai District.

7. This Court gave its anxious consideration to the rival submissions.

8. The allegation against the petitioner is not as simple as what Mr.N.Manoharan, learned counsel for the petitioner portrays. The fact remains that Gokulraj was abducted by a group, in which, the petitioner was a part. The group blindfolded Gokulraj and took him near a Hillock, thereafter, the body of Gokulraj was found near the Railway track with severed head. Gokulraj was admittedly, a Dalit and that the murder was Honour killing. The petitioner, who was on bail, had forfeited his right to continue on bail in view of the unsavoury incident, which occurred in the Trial Court on 19.12.2017. In the appeal filed by A1 before the Hon'ble Supreme Court, directions have been issued to the Trial Court to complete the trial in a time bound manner.

9. Taking into consideration the serious nature of the case involving Honour killing and the conduct of the appellant, this is not a fit case to grant bail to him. In the result, this Criminal Appeal is dismissed as being devoid of merits.

10. This Court appreciates Mr.P.Sesubalan Raja, Advocate, who was appointed by this Court as pro bono for the de facto complainant.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Principal Sessions Judge,
Namakkal.

2.The Deputy Superintendent of Police
I/c. CBCID, Salem Range
CBCID, Namakkal.

3.The Public Prosecutor
High Court, Madras.

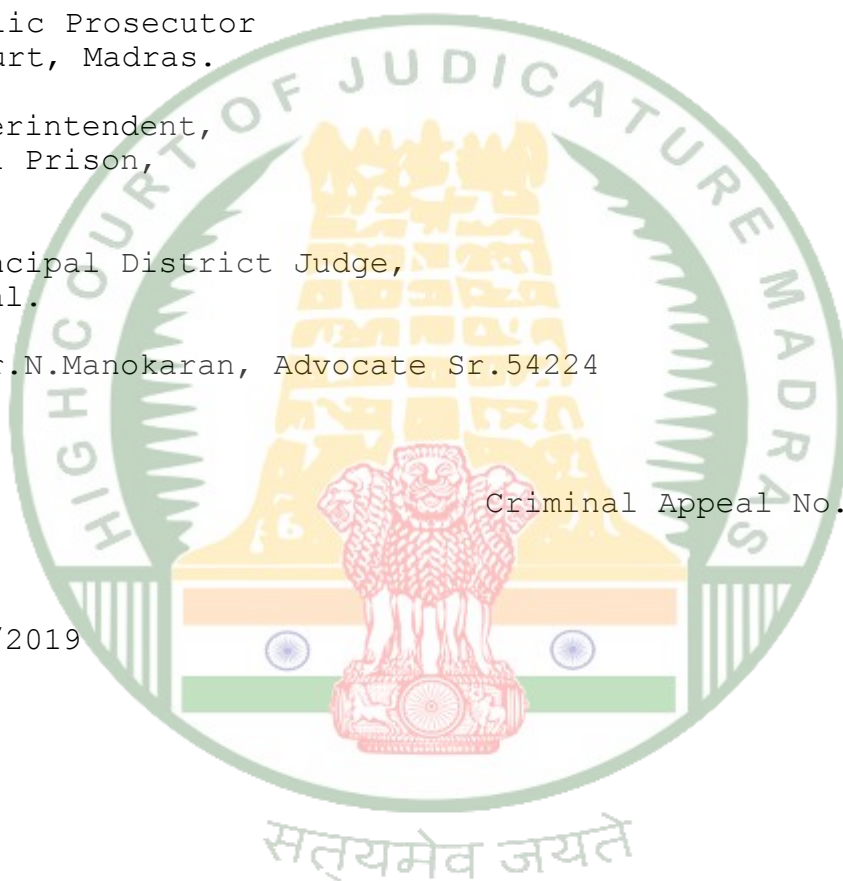
4.The Superintendent,
Central Prison,
Salem.

5.The Principal District Judge,
Namakkal.

+1cc to Mr.N.Manokaran, Advocate Sr.54224

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