

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.05.2019

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.A.No.286 of 2019

Ramkumar

...Appellant/Petitioner

Versus

State Rep by
Inspector of Police,
All Women Police Station,
Polur, Tiruvannamalai District
Crime No.3/2019

...Respondent/Respondent

PRAYER: Criminal Appeal filed under Section 378(3) Cr.P.C. r/w. Section 14A(2) SC/ST Amendment Act, 2015, to set aside the order dated 15.05.2019 passed in Crl.M.P.No.1930 of 2019 on the file of Vacation Session Judge, Tiruvannamalai and enlarge the appellant on bail.

For Petitioners: Mr.Krishnan.P

For respondent : S.Thankira
Government Advocate

ORDER

The petitioner is an accused in this case for the offences under Section 498(A), 494, 506(i) IPC and r/w 3(1)(r), 3(1)(s) of SC/ST(POA) Act.

2. The defacto complainant is none other than the estranged wife of the petitioner. The petitioner and the defacto complainant had a love marriage on 15.09.2013 and it was a intercaste marriage. The defacto complainant belongs to the Scheduled Caste Community. The marriage between them did not last long. The petitioner had filed H.M.O.P. seeking for divorce in H.M.O.P.No.66 of 2015 before the Sub Court, Arani and the same was transferred to Sub Court, Chennai. The petitioner has not pursued the same and hence the case was dismissed as non prosecution. In the meanwhile, the respondent filed a maintenance case in M.C.No.377 of 2015 and obtained an order for

maintenance by an order dated 26.07.2018 directing the petitioner to pay Rs.5,000/- per month. It is not clear, whether the petitioner has been complying with order.

3. In the meanwhile, the petitioner had a second marriage with another lady and he has been living with her. The defacto complainant on coming to know about the same, had approached the petitioner residing at Polur. At that time, the petitioner is said to have abused and uttered with the prohibitory words and by her caste name. Further the family members of the petitioner had threatened her that she would be burnt alive. Thereafter, she had lodged the above complaint which came to be filed against the petitioner. The petitioner was arrested on 03.05.2019. The lower Court had dismissed the bail petition of the petitioner in Crl.M.P.No.1930 of 2019 on 15.05.2019 on the ground that investigation is pending.

4. This appeal came to be filed against the Crl.M.P.No.1930 of 2019. As per the Section 15(f) of Cr.P.C., notice was ordered to the victim and proof of service has been filed. Though the victim's name has been printed in the cause list, there is no representation. It is also brought to the notice of this Court that the victim has also failed to appear before the Lower Court, when the bail petition was argued.

5. The learned Government Advocate appearing for the respondent submitted that investigation is going on and purely it is a case offshoot of the matrimonial dispute.

6. The learned counsel for the petitioner submits that he is willing to cooperate and abide by any condition imposed by this Court. The petitioner on knowing the communal status of defacto complainant that she had a love affair and they had lived together, due to adamant attitude of the defacto complainant the family life could not be further proceeded and hence there is disharmony and has separated and they have been living separately for more than 5 years and now suddenly a false case has been foisted against him.

7. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the learned District Judge, Tiruvannamalai and on further conditions that:-

[a] the petitioner shall appear before the respondent police daily at 10.30 a.m., until further orders.

[b] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[c] the petitioner shall not abscond either during investigation or trial.

[d] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

[e] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Vacation Sessions Judge,
Thiruvannamalai.
- 2.The Judicial Magistrate No.I,
Thiruvannamalai.
- 3.-Do- Thro' The Chief Judicial Magistrate,
Thiruvannamalai.
- 4.The Superintendent,
Sub Jail,
Polur.
- 5.The Inspector of Police,
All Women Police Station,
Polur, Thiruvannamalai District.
- 6.The Public Prosecutor,
High Court, Madras-104.

+1cc to Mr.P.Krishnan, Advocate Sr.44486

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srg 31/05/2019