

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 20.09.2019

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.A.No.579 /2019

R.Manikandan

..

Appellant/Petitioner

Vs

1.State rep. By
The Inspector of Police,
Anaikarachatiram Police Station,
Nagapattinam District
(Crime No.153/2019)

Respondent/Respondent

2.Sundaramurthy
S/o.Selam, Jeeva Nagar
Koothiyampettai Village,
Thirumayiladi Post Sirkazhi Taluk
Nagapattinam District
(R2 impleaded as per order of this court
dated 09.09.2019 made in Crl.MP.No.12915/2019
in Crl.A.No.579/2019

Prayer:- The Criminal Appeal is filed under Section 14-A of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Amendment) Act, 2015, to set aside the order dated 19.08.2019 made in C.M.P.No.527/2019 on the file of Sessions Judge, Fast Track Mahila Court, Nagapattinam and to allow the appeal by enlarging the appellant on bail.

For Petitioner : Mr.C.Prabakaran

For Respondent : Mr.M.Mohamed Riyaz, APP

JUDGEMENT

1. This Criminal Appeal has been filed, seeking to set aside the order dated, 19.08.2019, made in CMP.No.527 of 2019, by the Sessions Judge, Fast Track Mahila Court, Nagpattinam, dismissing the said petition filed under Section 439 of Cr.PC, and to enlarge the Appellant/Accused on bail.

2. The facts of case is that one Pratheepa, daughter of the defacto complainant, aged about 17 years, went to a College Tour on 20.06.2019, but she did not return after the tour and that on the complaint given by the defacto complainant, initially, a case was registered in PS.Cr.No.153 of 2018 for 'girl missing' and during the investigation, the victim was secured and on her statement that by giving false promise to marry, the Appellant/Accused had committed rape on her, the case was altered to one under Sections 366(A) of IPC read with 5(1) of the POCSO Act and Section 3(i) (w)(i) of SC/ST Act and thereafter, the Appellant/Accused was arrested and remanded to judicial custody. In and by the impugned order, the petition filed by the Appellants, seeking bail was dismissed. Hence, this Criminal Appeal has been filed.

3. The father of the victim girl was impleaded as per order dated 09.09.2019 in CrI.MP.No.12915/2019. Private Notice has been served. He is also intimidated by the respondent police, however he is not present before this Court.

4. This court heard the learned counsel on either side and also perused the materials placed on record.

5. The learned counsel for the Petitioner would submit that admittedly it is a case of love affair between the Appellant/Accused and the victim and that the victim girl eloped with the Appellant and that on coming to know about the registration of the case, both have surrendered before the Respondent Police. He would further submit that even as per the statement recorded under Section 164 of Cr.PC, the victim has not made any allegations against the appellant/accused as if he had abducted her or sexually abused her. He would further submit that the appellant was arrested on 04.07.2019 and is in judicial custody for 47 days and that the major part of the investigation is over.

6. The respondent police has filed a counter, wherein it has been stated that the statement of the de facto complainant, his wife and two other neighbours were recorded and that his statement under Section 164 of Cr.P.C. was recorded from the victim girl.

7. The learned Additional Public Prosecutor would submit that though the victim girl has not stated anything about the Appellant/Accused in her statement recorded under Section 164 of Cr.PC, the medical examination shows that the victim was subjected to sexual intercourse. He would further submit that investigation is still pending.

8. Considering the facts and circumstances of the case, particularly, the statement made by the victim under Section 164 of Cr.PC and also considering the submissions of the learned counsel on either side, this Court is of the view that this Criminal Appeal is to be allowed. Accordingly, this Criminal Appeal is allowed, setting aside the impugned order. The Appellant/Accused is ordered to be enlarged on bail, on the following conditions:

i. The Petitioner/ accused shall execute 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 Sessions Judge, Fast Track Mahila Court, Nagapattinam.

ii. The Petitioner//accused shall stay at Tiruchy and report before the Tiruchy Palakari Police Station daily at 10.30 A.M. for a period of 4 weeks and thereafter report before the Anaikarachatiram Police Station, Nagapattinam District as and when required.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1.The Sessions Judge, Fast Track Mahila Court,
Nagapattinam

2.The Inspector of Police,
Anaikarachatiram Police Station,
Nagapattinam.

3. The Public Prosecutor, High Court, Madras.

4.The Section Officer
Criminal Section
High Court, Madras

+1 cc to Mr.C.Prabhakaran Advocate sr80889

aa20/09/2019

Cr1.A.No.579 /2019