

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2019

CORAM:

THE HONOURABLE MR. JUSTICE A.D. JAGADISH CHANDIRA

Crl.A.No. 589 of 2019

P.Surendran

Appellllant/A-14

Vs.

1. The Inspector of Police,
S10, PalliKaranai Police Station,
Kancheepuram District.
(Crime No.937/2017)

2. The Superintendent of Police,
CBCID, Chennai.
Respondents/Respondents

3.S.TamilzhSelvi Respondent/ Defacto Complainant

PRAYER:- This Criminal Appeal has been filed under Section 397 r/w 401 of Cr.P.C, against the dismissal order dated 28.08.2019 in Crl.MP.No.4349/2019 on the file of the Principal Sessions Judge of Kancheepuram District at Chengalpattu.

For Appellant : Mr. S.Veeraraghavan
For Respondents1 &2 : Mr.M.Mohamed Riyaz, APP
For Respondent 3 : Mr.R.C.Paul Kanagaraj

JUDGMENT

1.This Criminal Appeal has been filed by the Appellant/A-14 against the order of dismissal of the bail application in Crl.MP.No.4349/2019 dated 28.08.219.

2.This Court heard the learned counsel on either side and also perused the materials placed on record.

3.The brief facts of the case as per the complaint given by the defacto complainant one Tamil Selvi is that she along with her family was residing at Pallikarani and that her husband Shankaran was engaged in the business of real estate and they owned a Marriage Hall at Velacherry main road. On 03.04.217, she along with her husband came to the marriage hall and at around 3.30 p.m., the three named accused along with others, have trespassed into the office of the husband of the defacto

complainant and abused him with filthy language and saying that if only he die, they will live peacefully and by saying so cut her husband indiscriminately with knife on the head and all over the body and escaped from the scene of occurrence. Her husband was taken to the hospital where he was proclaimed dead. Suspecting that the disputes relating to the real estate business was the motive for the murder, she had given a complaint against three named persons and others. Based on the complaint, a case in Cr.No.937/2017 was registered by the first respondent-police for the offence under sections 147, 148, 448, 302 and 506(ii) of IPC.

4. During the course of the investigation, it came to light that the second accused one S.M.Egambaram and the deceased had enmity due to political rivalry and that there were also disputes, regarding non-payment of sale consideration by the deceased to the accused in a land transaction, due to which, the accused had conspired and committed the murder of the deceased and thereby the case was altered to one under Sections 147, 148, 448, 302, 506(ii) r/w 3(2) of the SC/ST prevention of adulteration of amendment Act 2014. The petitioner had surrendered on 14.08.2019, before the VI Metropolitan Magistrate, Egmore and he was remanded to judicial custody. Meanwhile the defacto complainant apprehending that the investigation was not done in a proper manner had approached this Court, seeking transfer of investigation, in CrI.OP.No.10780/2017 and this Court by order dated 27.08.2019, had transferred the investigation of the case to the file of the second respondent and the investigation is presently being done by the second respondent.
5. The learned counsel for the petitioner would submit that the name of the petitioner does not find a place in the First Information Report and he has been falsely implicated based on the alleged confession recorded from the co-accused one Karthikeyan who has been arrayed as A-8. Earlier the defacto complainant had filed several applications and the 1st respondent had filed counters, in which no avernments were made against the petitioner and nothing had been spoken about the involvement of the petitioner and only based on the confession recorded from A-8, the petitioner was implicated as A-14 in this case and the allegation against him, is that the petitioner had transferred an amount of Rs.2 Lakhs to the said Karthikayan and the respondent police has wrongly suspected that the petitioner has transferred the amount to A-8 for committing the murder of the deceased. He would further submit that similarly placed , accused, who have been arrested, have been enlarged on bail. He would further submit that the major part of the investigation is over and the trial Court had dismissed the petition, stating that the petitioner was absconding for a long time and that was the reason for the trial court to dismiss the bail application.

6. He would further submit that only based on the confession of A-8, the petitioner was implicated as A-14 in this case and after coming to know about the false implication based on confession, the petitioner had approached the Sessions Court for obtaining anticipatory bail and that was dismissed by the Sessions Court and thereafter, the petitioner had approached this Court and thereafter, Special Leave Petition was filed and Special Leave Petition was also dismissed on 15.07.2019. After exploring all his avenues, the petitioner voluntarily surrendered before the Judicial Magistrate on 14.08.2019. Further, he would submit that for more than 60 days, the appellant /A-14 is inside the jail and would submit that major part of the investigation is over. He would further submit that it is not the case that the offence is stated to have been committed on account of the victim being a person belonging to the Scheduled Caste community and thereby would seek for grant of bail.
7. Mr. Mr. R.C. Paul Kanagaraj, learned counsel for the defacto complainant would vehemently oppose, stating that the petitioner is the main person, in this case and he is the person, who has engaged hirelings from other district to do away with the deceased and committed the cold blooded murder of the deceased. He would submit that there are clinching evidence to show that the petitioner was present around the place of occurrence and he had abetted and instigated the other accused to commit the murder. He would submit that the main accused in this case is one S.M. Egambaram, is yet to be arrested and if the petitioner is enlarged on bail, there is every possibility that he may inform the main accused about the nature of investigation having been done and there is a possibility of interfering and diverting the course of investigation.
8. The learned Additional Public Prosecutor would submit that due to political rivalry and non payment of sale consideration in a real estate transaction, the accused had conspired with the other accused and committed the cold blooded murder of the deceased Shankaran by engaging hirelings in the presence of his wife. He would submit that it is a day light murder which had been committed at 3.30 pm, in the premises of a marriage hall. He would submit that the case was registered in the year 2017 and since the defacto complainant filed transfer application that the investigation was not done in a proper manner, the investigation has been now transferred to the second respondent very recently and the investigation by the second respondent is in the initial stage. He would submit that the second accused in this case one S.M. Egambaram, is yet to be apprehended and at this stage, if the bail is granted to the petitioner, there is every possibility the investigation being hampered. He would submit that the petitioner has a major role and he is the person who has engaged the hirelings. He would further submit

that the other accused have been released on statutory bail.

9. Taking into consideration the facts and the submissions made by the learned counsel and taking into consideration that the appellant is in custody from 14.08.2019 and the other co accused who have been arrested are enlarged

on bail and that major part of the investigation is over, this Court is inclined to grant bail to the Appellant/A-14. Accordingly, this Criminal Appeal is allowed and the Appellant/A-14 is ordered to be released on bail on condition that the

Appellant/A-14 shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty five thousand only), with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate-I, Chengalpet and on further conditions that:

[a] The petitioner shall stay at Chennai and report before The Superintendent of Police, CBCID, Chennai, every day at 10.30 am and 5.30 pm, 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 Judicial Magistrate-I, Chengalpet, 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 abscond, a fresh FIR can be registered under Section 229-A IPC.

-s/d-

Assistant Registrar (CSII)

True Copy

Sub-Assistant Registrar

jrs

To

1. The Principal Sessions Judge of
Kancheepuram District at Chengalpattu.
2. The Inspector of Police, S10, Pallikaranai Police Station,
Kancheepuram District.
3. The Judicial Magistrate No. I
Chengalpet

4. The Chief Judicial Magistrate,
Chengalpet

5. The Superintendent of Police
CBCID Chennai

6. The Superintendent Central Prison,
Puzhal Chennai

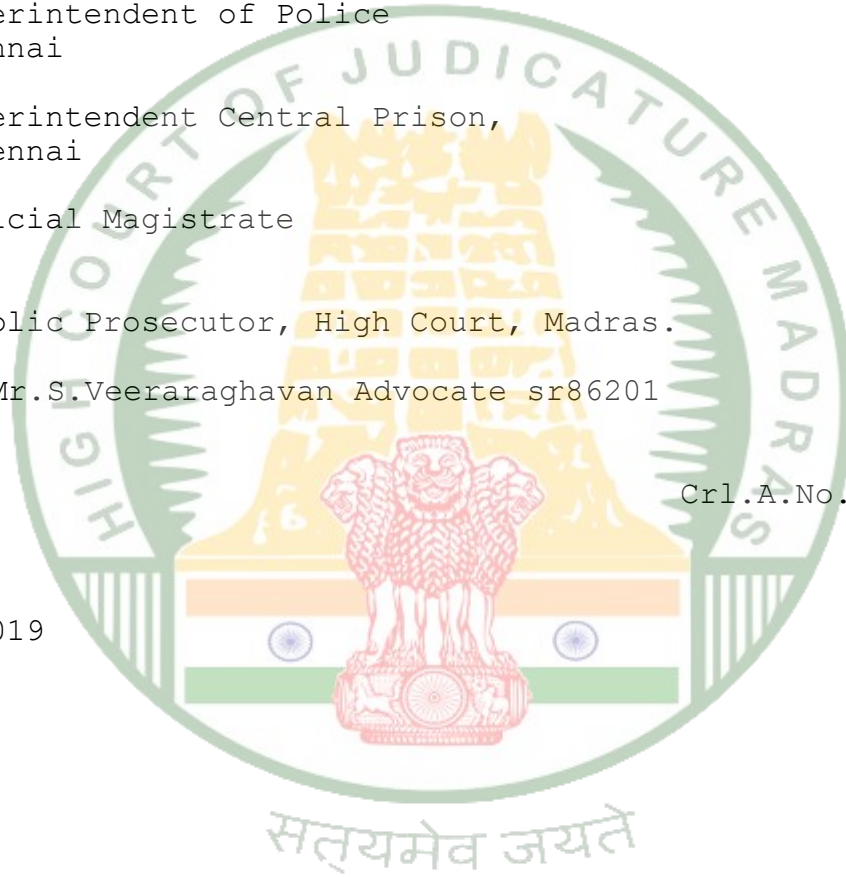
7. The Judicial Magistrate
Alandur

8. The Public Prosecutor, High Court, Madras.

+2 cc to Mr. S. Veeraraghavan Advocate sr86201

Crl.A.No.589 of 2019

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