

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 27.09.2019
CORAM
THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA
Criminal Appeal No.591 Of 2019

Arun Kumar

..Appellant

Vs.

1. State By;

Station House Officer,
Arovil Police Station,
Villupuram District,
Crime No.195 of 2019

2. Ranjitham

[R2 is impleaded as per order in
Crl.M.P.No.13296 of 2019 in
C.A.No.591 of 2019 dated 16.09.2019].

.. Respondents

Prayer: This Criminal Appeal has been filed under Section 14(A) of the SC/ST Act, 2015 against the order made in Crl.M.P.No.1392 of 2019 in Crime No.195 of 2019, dated 20.08.2019, by the Court of Sessions Judge, Special Court for Exclusive Trial of Cases, registered under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Villupuram.

For Appellant : Mr.R.Thamaraiselvam

For R1 : Mr.Mohamed Riyaz
Additional Public Prosecutor

सत्यमेव जयते
J U D G M E N T

This Criminal Appeal has been filed by the Petitioner/Accused, seeking to set aside the order passed in Crl.M.P.No.1392 of 2019 in Crime No.195 of 2019, dated 20.08.2019, by the court of Sessions Judge, Special Court for Exclusive Trial of Cases Registered under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Villupuram, dismissing the said petition filed under Section 439 of Cr.P.C., seeking bail.

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

3. The facts in a nutshell of the case are that on the basis of the complaint, dated 30.04.2019 given by the Village Administrative Officer stating that a female body was found in a burnt condition within his jurisdiction, the respondent police had registered a case in Crime No.195 of 2019 under Section 174 CrPC., and took up the case for investigation. The investigation had revealed that the body was that of one Lakshmi and that the Appellant/Accused and the deceased Lakshmi were in a relationship and later the said Lakshmi developed friendship with one Abdul Rahman. Later, the deceased had become pregnant and the deceased had compelled the accused to marry her and that on 29.04.2019, the Appellant / Accused and the said Abdul Rahman picked up the deceased from the shop where she was working and thereafter had taken her to a secluded place, raped and murdered her and thereafter in order to screen the evidence had set fire to the body and left it near Bommiyar Palayam Village, Auroville Main Road. The case was thereafter altered from Section 174 CrPC to Sections 302, 201, 120B, 364, 376(d) read with Sections 3(2) (v) and 3(2)(va) of the SC/ST (Prevention of Atrocities) (Amendment) Act, 2015. The petitioner was arrested and remanded to judicial custody on 03.05.2019. The petitioner had filed Crl.M.P.No.1392 of 2019 under Section 439 of CrPC seeking bail before the Special Court for Exclusive Trial of Cases registered under the SC/ST Act, 1989, Villupuram. By the impugned order dated 20.08.2019, the said petition was dismissed against which the Criminal Appeal has been filed.

4. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that it is a case of circumstantial evidence and since the petitioner was earlier having a relationship with the deceased, he has been falsely roped in and implicated in this case, on the suspicion that he would have committed the offence. Even as per the prosecution the deceased had developed relationship with one Abdul Rahman with whom the petitioner has no connection. He would further submit that the petitioner was arrested and remanded to judicial custody on 03.05.2019, since charge sheet was not filed even after the lapse of 90 days, the petitioner had filed a petition for mandatory bail invoking Section 167(2) of CrPC.

5. He would further submit that the learned Sessions Judge, by rendering a finding stating that Section 167(2) CrPC., is not a mandatory provision in Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, had erroneously dismissed the petition. He would further submit that the petitioner is in judicial custody for more than 144 days and that even till date, the respondent police has not filed the final report.

6. The mother of the victim viz., Ranjitham was impleaded as a necessary party/2nd respondent in this case and notice was ordered to her. Private Notice has been served on the mother of the deceased and further, it is also stated by the respondent police that intimation has been given to the mother of the deceased about the listing of the case today. The name of the mother of the deceased is also printed in the cause list today. There is no appearance for her.

7. The respondent police/Deputy Superintendent of Police has filed a counter affidavit wherein in para No.9, it has been stated that the charge sheet has not been filed by the respondent so far.

8. The learned Additional Public Prosecutor appearing for the first respondent police would submit that the petitioner had relationship with the deceased Lakshmi and she had become pregnant since she had insisted the petitioner to marry her, the petitioner along with other accused had taken her to a secluded place committed rape on her and thereafter murdered her and in order to screen the evidence had set fire to the body and left the body there. He would further submit that the investigation is pending and the final report has not been filed.

9. Admittedly, the petitioner had been arrested on 03.05.2019 and he is in judicial custody for more than 144 days. The investigation is pending and the charge sheet is yet to be filed. The finding of the Special Court that "This petition filed u/s 167(2) Cr.P.C. Charge sheet not yet filed u/s 167(2) Cr.P.C., is not a mandatory provision in SC/ST (Prevention of Atrocities) Act" is erroneous. The petitioner is entitled for mandatory bail.

10. In view of the same, this Criminal Appeal is allowed and the impugned order 20.08.2019 is set aside and the petitioner is ordered to be enlarged on bail, on the following conditions:-

- i. The Petitioner/accused 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 Sessions Judge, Special Court for Exclusive Trial of Cases Registered under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Villupuram - 605 602.

ii.The Petitioner/Accused shall report before the respondent police every day at 10.30 a.m., and 5.30 p.m., until further orders.

Sd/-
Asst.Registrar (Insp Cell)

/true copy/

Sub Asst. Registrar

To

1.The Sessions Judge,
special court for Exclusive Trial of Cases
Registered under the SC & ST(Prevention of Atrocities
Act 1989 Villupuram

2.The superintendent of central prison
Cuddalore

3.The Public Prosecutor
High Court Madras

4.The Station House Officer
Arovil Police Station
villupuram District

+1 cc to M/s.R.Thamariselvan Advocate sr83279

Cr1.A.No.591 of 2019

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