

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2019

CORAM:

THE HONOURABLE MR. JUSTICE A.D. JAGADISH CHANDIRA

Crl.A.Nos. 664 & 682 of 2019

Naveen @ Naveen Kumar

Appellant /A-8

Seelan @ Sathiyaseelan

Appellant /A-7

Vs.

1. State rep by,

The Superintendent of Police,
Arinyankuppam Police Station,
Pondicherry.

(Crime No.52/2019)

...respondent /complainant in both
appeals

2.Tamizhpriyan

... respondent/complainant
in both appeals

PRAYER in Crl.A.664/2019:- This Criminal Appeal has been filed under Section 14(2) of Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act-2015, against the dismissal order dated 09.09.2019 in Crl.MP.No. 153 of 2019 in Crime No.52/2019 on the file of the II Additional Sessions Judge, Puducherry.

PRAYER in Crl.A.682/2019:- This Criminal Appeal has been filed under Section 14(2) of Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act-2015, against the dismissal order dated 20.09.2019 in Crl.MP.No. 1622 of 2019 in Crime No.52/2019 on the file of the II Additional Sessions Judge, Puducherry.

For Appellant
in C.A.664/2019 : Mr. E.Anbarasan
For Appellant
in C.A.682/2019 : Mr. A.P.Sathyamurthy
For Respondents1
in both appeals : Mr.Bharatha Chakravarthy,
Public Prosecutor (Pondicherry)

COMMON JUDGMENT

1. These Criminal Appeals have been filed by the Appellants/Accused No.8 & No.7, against the order of dismissal of the bail applications in CrI.MP.Nos. 153 & 1622 of 2019 in Crime No.52/2019 dated 09.09.2019 & 20.09.2019 respectively, on the file of the II Additional Sessions Judge, Puducherry.
2. This Court heard the learned counsel on either side and also perused the materials placed on record.
3. The brief facts of the prosecution of the case is hereunder:
The defacto complainant is an Advocate in his profession, his sister, was given a marriage to one Nagaraj and that they have got two children. Since the said Nagaraj belonged to the Dalit community there were enmity between him and one Logu, who belonged to the upper caste community. On 23.04.2019, the said Logu had quarrelled the deceased Nagaraj, on 24.04.2019 when the said Nagaraj was returning from the house of the defacto complainant, the named accused and others who belonged to the upper caste community have waylaid him and committed the murder of him by indiscriminately, cutting him with Aruval and knives all over the body. Based on the complaint given by the said Tamizhpriyan, a case in Cr.No.52/2019 was registered by the respondent police for the offence under section 147, 148, 341, 302 of IPC r/w 149 of IPC. Since the deceased belonged to the scheduled caste community, the case was altered to one under Sections 147, 148, 341, 302 of IPC and under Section 3(2)(v) of the SC/ST Prevention Atrocities Act, 2015 r/w 149 of IPC. The appellants were arrested on 09.05.2019 and remanded to judicial custody on the same day. They have filed bail applications before the Special Court and the Special Court by orders dated 09.09.2019 and 20.09.2019, had dismissed the bail applications, against which the present appeals are filed.
4. In CrI.A.No.682/2019, the defacto complainant was directed to be impleaded and he was impleaded as per order dated 17.10.2019 in CrI.MP.No.14834/2019.
5. In CrI.A.No.664/2019 the defacto complainant was cited as 2nd

respondent. The appellants were directed to take private Notice and the 1st respondent police was also directed to intimate the defacto complainant about the pendency of the appeals before this Court. Though, private notice has been taken and intimation has also given by the 1st respondent and the name of the defacto complaint has printed in the cause list, there was no representation for the defacto complainant.

6.The appellant in CrI.MP.No.682/2019 has been arrayed as A-7 and the appellant in CrI.MP.No.684/2019 has been arrayed as A-8. They have been arrested and remanded to judicial custody on 09.05.2019.

7.The learned counsel for the appellant/A-7 would submit that he is innocent and he has been falsely implicated in this case, since he belong to the rival community. He would submit that the name of the petitioner does not find a place in the first information report and based on the alleged confession from the other accused he has been falsely implicated in this case. He would submit that the investigation has been completed and the final report has been filed and the case is pending framing of charges in S.C.No.45/2019 before the Special Court. He would submit even as per the final report the allegations against the appellants/accused is that he watched the movements of the deceased and reported it to the other accused and other than that no overtact has been attributed to the appellants/accused.

8.The learned counsel for the appellant/A-8 would submit that the allegations against the A-8 is also similar to that of the A-7. He would submit that the appellant/A-8 has also been implicated only because he belongs to the rival community. He would submit that the petitioner is a student, studying B.Tech., in Christ College of Engineering and Technology, Moolakulam, Pitchaveeranpet, Oulgaret Municipality, Puducherry-10 and that due to the false implication the future of the petitioner is at stake.

9.The learned Additional Public Prosecutor would submit that the deceased Nagaraj had married one Surya, belonging to the upper caste community and the accused enraged by the deceased having married a women belonging to their community and living in the same area in order to take revenge had committed the murder of the deceased. He would submit that the deceased had indiscriminately attacked the deceased with Aruval and knives and have caused the murder of the deceased in a brutal manner in broad day light. He would submit that the overtacts against the petitioner are that they shared a common intention to do away with the accused pursuant to which they have watched the movements of the deceased and informed it to the other assailants. He would further submit that the charge sheet has

been filed and the case is pending for framing of charges in S.C.No.45/2019 before the Special Court. He would oppose to grant of bail.

10. Taking into consideration the facts of the case and that the case is posted for framing charges and considering their overtact and that the appellants are in custody from 09.05.2019, this Court is of the opinion that they may be enlarged on bail and thereby the criminal appeals stands allowed and the Appellants/A-8 & A-7 are ordered to be released on bail on condition that the appellants /accused shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) seperately, with two sureties, each for a like sum to the satisfaction of the learned II Additional Sessions Judge, Puducherry and on further conditions that:

[a]The Appellant /Accused-7 shall appear before the Trial Court at 10.30 a.m. on everyday until further orders and the Appellant/A-8 shall report before the trial Court on all hearing days, without fail.

[b] the Appellants shall not tamper with evidence or witness during trial.

[c] the Appellants shall not abscond during or trial.

[d] On breach of any of the aforesaid conditions, the learned II Additional Sessions Judge, Puducherry is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioners released on bail by the II Additional Sessions Judge, Puducherry 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.

Sd/-

Asst.Registrar (Insp Cell)

/true copy/

Sub Asst. Registrar

To

1. The II Additional Sessions Judge-cum-Special Judge (SC & ST Prevention of Atrocities) (Under Scheduled caste and Scheduled) Act 1989 at Pondicherry.

2. The Public Prosecutor, Pondicherry.

3.The Superintendent
Central Prison, Kalapet, Puducherry

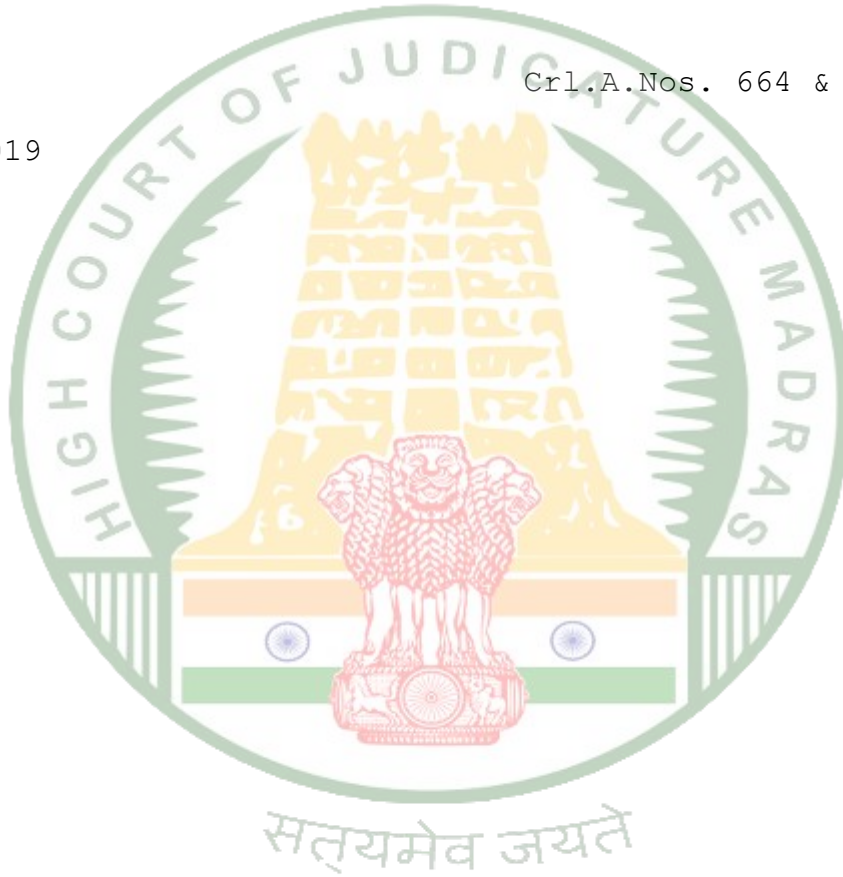
4.The Station Head Officer
Ariyankuppam Police Station
Puducherry

+1 cc to M/s.A.P.Sathyamurthy Advocate sr87294

+1 cc to M/s.E.Anbarasan Advcate sr87499

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