

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2019

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.A.Nos.673 & 686 of 2019

Crl.A.No.673/2019:

Raji @ Rajasekar

... Appellant/A-1

Vs.

1. State rep by
The Superintendent of Police (West),
Nettappakkam Police Station,
Through Special Public Prosecutor,
Puducherry.
(Crime No. 8/2019) ...1st Respondent/Complainant
2. Padmavathy ...2nd Respondent/Defacto
complainant

PRAYER: The Criminal Appeal has been filed, under Section 14(a) of the Scheduled Caste and Scheduled Tribe Act, 1989, seeking to set aside the order dated 17.09.2019, made in Crl.M.P.No.161/2019, by the learned II Additional Sessions Judge, Puducherry cum Special Judge under Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and consequently enlarged on bail in Crime No.8/2019 on the file of the 1st respondent police.

Crl.A.No.686/2019:

Arul @ Arulprakash

... Appellant/A-3

Vs.

- 1.The State represented by
Station House Officer,
Nettappakkam Police Station,
Puducherry.
(Crime No.8/2019) ...1st Respondent/Complainant
2. Padmavathy ...2nd Respondent/Defacto
complainant

PRAYER: The Criminal Appeal has been filed, under Section 378 of Cr.P.C, seeking to set aside the order dated 04.10.2019, made in

Crl.M.P.No.172/2019, by the learned II Additional Sessions Judge/Special Judge (under Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, Puducherry and to enlarge the appellant on bail in connection with Crime No.8/2019 on the file of the respondent.

For appellant in
Crl.A.No.673/2019 : Mr.K.Sudhakar

For appellant in
Crl.A.No.686/2019 : Mr.D.Lakshmipathy

For Respondents
in both appeals: Mr.Bharath Chakravarthy,
Public Prosecutor, Puducherry
for R-1
: No appearance for R-2

C O M M O N O R D E R

Criminal Appeal No.673/2019 has been filed by the appellant/A1, seeking to set aside the order dated 17.09.2019, made in Crl.M.P.No.161/2019, by the learned II Additional Sessions Judge, Puducherry cum Special Judge under Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and Criminal Appeal No.686/2019 has been filed by the appellant/A3, seeking to set aside the order dated 04.10.2019, made in Crl.M.P.No.172/2019, by the learned II Additional Sessions Judge/Special Judge (under Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, Puducherry.

2 The case of the prosecution as per the de-facto complainant Padmavathy, is that her daughter was married to one Rajasekar and the marriage was a love marriage and thereafter, dispute arose between them and matrimonial proceedings were pending before the Family Court, Villupuram. While so, some body had murdered her daughter. The de-facto complainant, suspecting that the murder has been committed, at the instance of her son in law, had given a complaint on 01.03.2019, based on which, a case in Crime No.8/2019 was registered for the offence under Section 302 of IPC. During the course of the investigation, it came to light that the husband of the deceased, Rajasekar/A1, suspecting her fidelity of his wife, had engaged hirelings and committed the murder of his wife who belonged to the Scheduled Caste Community and thereby, the case was altered for the offences under sections 109, 120-B, 341, 302 of IPC and Section 3(2) (Va) of SC/ST (Prevention of Atrocities) Act, 1989 and Section 4 of the Dowry Prohibition Act, 1961 read with 149 of IPC. Totally 12 persons were arrested and the appellants herein

are arrayed as A1 and A3. The appellant/A1 was arrested and remanded to judicial custody on 01.03.2019 and the appellant/A3 was arrested and remanded to judicial custody on 03.03.2019. The applications for bail filed before the Trial Court had been dismissed. Against which the present criminal appeals have been filed.

3 This Court heard the learned counsel for the appellants and the learned Public Prosecutor, Puducherry for the 1st respondent and also perused the materials placed before this court.

4 The learned counsel for the appellant/A1 would submit that the petitioner is the husband of the deceased and that petitioner is innocent and he has been falsely implicated in this case, due to the enmity. He would submit that there was a matrimonial dispute between A1 and his wife is the deceased and that he has compromised with his wife and she had come back and started living with him during which time, the murder had been committed. He would further submit that de-facto complainant who was antagonised against the petitioner for having married her daughter has falsely implicated him in the matter and would submit that the appellant/A1 was arrested on 01.03.2019 and that the investigation has been completed, charge sheet has been filed and the case is taken on file and posted for framing of charges and would submit that some of the co-accused have been enlarged on bail and that they have been regularly appearing before the Court and if only the petitioner is enlarged on bail he would not be able to engage a counsel to defend this case. He would further submit that the offence had not been committed on the ground that the deceased belong to the Scheduled Caste Community.

5 The learned counsel for the appellant/ A3 would submit that he is innocent and he has been falsely implicated in this case, and would submit that the petitioner has been implicated in this case based on the alleged confession stated to have been recorded from A1 that suspecting the fidelity of his wife he had engaged hirelings through the petitioner to do away with his wife. He would submit that the respondent police had initiated action against him under Section 107 of Cr.P.C., and that they have falsely implicated him in this case and that the investigation is over and charge sheet has been filed and the case is posted for framing of charges on 14.11.2019 and would submit that the petitioner has to be enlarged on bail for seeking legal assistance to defend the case and that the co-accused in this case have been enlarged on bail by this Court dated 30.09.2019 in CrI.A.No.616/2019.

6 The de-facto complainant was directed to be implicated and private notice was ordered and the 1st respondent police was also directed to intimate the de-facto complainant despite notice an intimation there is o representation for the 2nd respondent/de-facto complainant.

7 The Public Prosecutor (Puducherry), would submit that appellant/A1 is the husband of the deceased and he suspecting the fidelity of his wife had conspired with the other accused and by engaging hirelings through appellant/A3 had committed the murder of his wife by slitting her throat when she had gone to purchase milk and would submit that the investigation is over and the case has been taken on file and posted the case for framing of charges on 14.11.2019 and that if the appellants/A1 & A3 enlarged on bail, there is every possibility of the appellants/A1 & A3 threatening the case and they may not be available for framing of charges derailing the progress of trial. The learned Public Prosecutor, Puducherry, would submit that in respect of A3 is concerned he has three previous cases and that under Section 107 proceedings have also initiated against him on 5 occasions and he is a notorious offender.

8 Considering the facts and circumstances of the case and also considering the submissions of the learned counsel on either side, these criminal appeals are allowed and the Appellants/A1 & A3 are ordered to be enlarged on bail on the following conditions:-

- a) The Appellants/A1 & A3 are 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, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned II Additional Sessions Judge, Puducherry cum Special Judge under Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.
- b) The appellants/A1 & A3 and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.
- c) The appellant/A1 shall appear before the Trial Court every day at 10.30 a.m., until further orders.
- d) The appellant/ A3 shall appear before the Orleanpet Police Station every day at 5.30 p.m., until further orders.
- e) The appellants/A1 & A3 shall not enter Nettappakkam Police Station limits until further orders.

f) 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].

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ssi

To

- 1.The II Additional Sessions Judge/Special Judge under SC/ ST (Prevention of Atrocities) Act, 1989, Puducherry.
- 2.-do- Through The Principal Sessions Judge, Puducherry.
- 3.The Special Judge, Puducherry.
- 4.The Superintendent of Police (West), Nettappakkam Police Station, Puducherry.
- 5.The Public Prosecutor, Puducherry.
- 6.The Central Prison, Kalapet.

+1 cc to M/s.D.Lakshmipathy, Advocate, S.R.No.87902

+1 cc to M/s.K.Sudhakar, Advocate, S.R.No.87812

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RSI (CO)
SSM(22/10/2019)

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