

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 24.10.2019
CORAM:
THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA
Crl.A.No.706 of 2019

Sugu @ Sugumaran

... Appellant/A-2

Vs.

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

PRAYER: The Criminal Appeal has been filed, under Section14(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.160/2019, 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.

For appellant : Mr.E.Anbarasan

For Respondent : Mr.Bharath Chakravarthy,
Public Prosecutor, Puducherry
for R-1

: सत्यमेव जयते
No appearance for R-2

JUDGMENT

This Criminal Appeal has been filed by the appellant/A2, seeking to set aside the order dated 17.09.2019, made in Crl.M.P.No.160/2019, by the learned II Additional Sessions Judge, Puducherry cum Special Judge under Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

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 the 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 appellant herein is arrayed as A2. The appellant/A2 was arrested and remanded to judicial custody on 03.03.2019. The application for bail was filed before the Trial Court had been dismissed. Against which the present criminal appeal has been filed.

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

4 The learned counsel for the appellant/ A2 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 having grudge against him 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. He would submit that the main accused have been enlarged on bail. He would further submit that the offences under the Prevention of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Amendment Act, cannot be made out against the petitioner, since the offence is not stated to have been committed on the ground that the victim belongs to Scheduled Caste Community.

5 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 and intimation there is no representation for the 2nd respondent/de-facto complainant.

6 The Public Prosecutor (Puducherry), would submit that appellant/A2 is a rowdy sheet holder in Thirubuvana Police Station, Pondicherry and the overtact of the appellant/A2 is that he arranged the hirelings by receiving an amount of Rs.10,000/- from A1, husband of the deceased to do away with her. Further the allegation against the appellant/A2 is he created "ALIBI", by making arrangements at Kollimalai and the appellant/A2 was arrested on 03.03.2019 at Erikarai, LR Palayam and now the appellant/A2 is in Central Prison, Kalapet, Puducherry and would submit that there are five previous cases against the appellant/A2.

7 Considering the facts and circumstances of the case and also considering the submissions of the learned counsel on either side, the criminal appeal is allowed and the Appellant/A2 is ordered to be enlarged on bail on the following conditions:-

- a) The Appellant/A2 is 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, Puducherry.
- b) The appellant/A2 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/A2 shall appear before the Trial Court every day at 10.30 a.m., until further orders.
- d) The appellant/ A2 shall report before the Orleanpet Police Station every day at 5.30 p.m., until further orders.
- e) The appellant/A2 shall not enter the 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].

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

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

+1 cc to Mr.Anbarasan Advocate sr88971

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