

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2019

CORAM:

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

Crl.A.No.720 of 2019

E.Suresh Kumar

... Petitioner

Vs.

1.The State,

Represented by its Inspector of Police,
All Women Police Station,
Sooramangalam, Salem District.
(Crime No.26/2019)

2.Sobia

.... Respondents

PRAYER: The Criminal Appeal has been filed, under Section 14(A) (II) of SC/ST (POA) Amended Act - 2015, to set aside the order passed in CMP.No. 3185 of 2019, dated 15.10.2019, on the file of the learned Principal Sessions Judge, Salem, by allowing the present Criminal Appeal.

For Petitioner : Mr.A.M.Esakkiappan

For R1 : Mr.M.Mohamed Riyaz
Addl.Public Prosecutor

For R2 : No appearance

J U D G M E N T

The appeal has been filed against the order passed in CMP.No.3185 of 2019 in Crime No.26 of 2019, by the learned Principal Sessions Judge, Salem, dated 15.10.2019, dismissing the said petition for bail.

2 The case of the prosecution as per the defacto complainant is that she belongs to the Adi-dravidar community and that the first accused/petitioner herein viz., Suresh Kumar belonged to MBC Vanniayar community and that they were living close by and that they were in love with each other for about eight years. On 12.09.2019, both the defacto complainant and Suresh Kumar had left their house without the knowledge of their parents and married on 12.09.2019 at Murugan Temple, Pazhani,

and on 13.09.2019, they have given a complaint to the All Women Police Station, Sooramangalam to call for parents of both families to arrive at a compromise and thereafter, they have taken up a house at Salem Junction, Sooramangalam, Chinappa Nagar and living as husband and wife. While so, on 18.09.2019, the accused had informed that he did not like to live with her and abused her, by calling her caste name and sent her out of the house, saying that he had achieved his object of marrying a girl from the SC Community

3 Based on the complaint given by the defacto complainant, a case in Crime No.26 of 2019 was registered under Sections 294(b), 506(i) IPC and 3(1)(r) 3(1)(s) of SC/ST Act read with Section 4 of the Tamil Nadu Prohibition of Woman Harassment Act, 2002, against the petitioner and his parents. The petitioner was arrested on 20.09.2019 and remanded to the judicial custody on the same day. The petitioner had filed a petition in CrI.M.P.No.3185 of 2019, seeking bail before the Court of learned Principal Sessions Judge, Salem, and the same was dismissed on 15.10.2019, by the impugned order. As against the same, the present appeal has been filed.

4 The learned counsel appearing for the petitioner would submit that the entire case is a fabricated one and that the petitioner and the defacto complainant were in love with each other for about eight years and they got married on 12.09.2019 and that they were living separately and while so, the parents of the defacto complainant, who are against the petitioner marrying with the defacto complainant, had convinced her and taken her to their house and instigated her to give a false complainant against the petitioner under compulsion. He would further submit that the petitioner is in judicial custody for more than 43 days.

5 The learned Additional Public Prosecutor would submit that the petitioner and the defacto complainant were in love with each other for eight years and that immediately, after marriage, he had, on the ground that she belongs to the Schedule Caste Community, abused her by calling her caste name and saying that he had achieved his object, he sent her out of the matrimonial home and further the parents of the petitioner have also threatened the defacto complainant. He would submit that investigation is pending and would pray for dismissal of this Criminal Appeal.

6 This Court had directed the petitioner to take private notice on the defacto complainant and also directed the respondent police to intimate the defacto complainant about the pendency of the petition. Private notice has been served on the defacto complainant and affidavit of service has also been filed

and the name of the defacto complainant is also printed in the cause list, but there is no representation for the defacto complainant.

7 This Court heard the learned counsel appearing for both sides and perused the materials placed on record.

8 Taking into consideration the submissions made by the learned counsel and also taking into consideration the facts of the case and that the petitioner is in custody for more than 43 days, this Court allows this Criminal Appeal and thereby bail is granted on the following conditions:

- a) The petitioner/accused 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 Additional Mahila Court, Salem.
- b) The petitioner/accused 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 petitioner/accused shall appear before the respondent police every day at 10.30 a.m., for a period of two weeks and thereafter as and when required .
- d) 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].

सत्यमेव जयते Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Inspector of Police,
All Women Police Station,
Sooramangalam, Salem District.

2.The Principal Sessions Judge,
Salem.

3.The Public Prosecutor,
High Court, Madras.

4. The Chief Judicial Magistrate,
Salem.

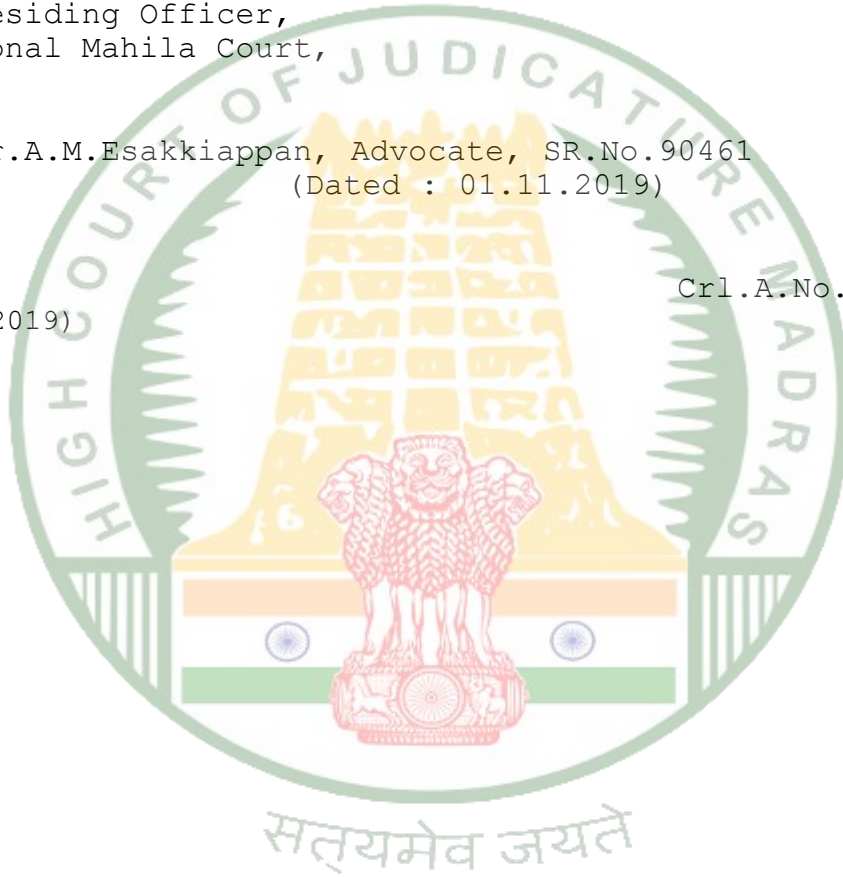
5. The Superintendent,
Central Prison, Salem Dist.

6. The Presiding Officer,
Additional Mahila Court,
Salem.

+1cc to Mr.A.M.Esakkiappan, Advocate, SR.No.90461
(Dated : 01.11.2019)

Kak(31/10/2019)

Cr1.A.No.720 of 2019



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