

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2019

CORAM:

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

Crl.A.No.725 of 2019

Yuvaraj

... Appellant/6th Accused

Vs.

1. State represented by,
The Superintendent of Police (South),
Ariyankuppam Police Station,
Through Special Public Prosecutor,
Puducherry,
Crime No. 52 of 2019.

2. Themizhpriyan ... Respondents/Respondents

PRAYER: The Criminal Revision Petition has been filed, under Section 14(A) of the SC/ST Act, 1989 to set aside the order dated 09.09.2019 in Crl.M.P.No.153 of 2019 on the file of the learned II Additional Sessions Judge, Puducherry cum Special Judge under Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and consequently to enlarge the petitioner on bail in Crime No. 52 of 2019 on the file of the first respondent Police.

For Appellant : Mr.K.Sudhakar

For R1 : Mr.Bharatha Chakravarthy
Public Prosecutor(Pondicherry)

For R2 : No appearance

J U D G M E N T
सत्यमेव जयते

This Criminal Appeal has been filed to set aside the order dated 09.09.2019 in Crl.M.P.No.153 of 2019 on the file of the learned II Additional Sessions Judge, Puducherry cum Special Judge under Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and consequently to enlarge the appellant on bail in Crime No. 52 of 2019 on the file of the first respondent Police.

2 The brief facts of the prosecution case are hereunder:

The defacto complainant viz., Themizhpriyan is an Advocate by profession and his sister, was given in marriage to one

Nagaraj and that they have got two children. Since the said Nagaraj belonged to the Dalit community, there was enmity between him and one Logu, who belonged to the upper caste community. On 23.04.2019, the said Logu had quarrelled with the deceased Nagaraj and 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 of 2019 was registered by the respondent police for the offences under Sections 147, 148, 341, 302 of IPC read with 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 read with 149 of IPC. The appellant/A6 was arrested on 09.05.2019 and remanded to judicial custody on the same day. He has along with the other accused filed bail application in CrI.M.P.No.153 of 2019 before the Special Court and the Special Court by order dated 09.09.2019, had dismissed the bail applications, against which the present appeal is filed.

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

4 The learned counsel appearing for the petitioner would submit that the appellant has been arrayed as A6 in this case. He would submit that the appellant is innocent and he has been falsely implicated in this case since he happens to be a relative of the main accused and that he also belongs to their community. He would further submit that he is in custody from 09.05.2019 and the investigation in this case is over, final report has been filed and the case is pending for framing of charges. He would further submit that some of the co-accused in this case have been enlarged on bail and thereby would seek for allowing this bail petition and for granting bail.

5 Per contra, the learned Additional Public Prosecutor would submit that in respect of the co-accused, who have been granted bail, the allegation against them is that they watched the movements of the deceased and informed to the other accused. As far as the appellant/A6 is concerned, his name finds place in the FIR and the overt act attributed against the appellant is that he attacked the deceased with an Aruval, inflicting injury in the neck. Thereby, he has caused fatal injury. However, he would submit that the investigation has been completed and the case has been taken on file and is pending for framing of charges on 04.11.2019.

6 This Court had directed the appellant to take private notice on the respondent/defacto complainant. Private notice has been served and affidavit of service has also been filed and the name of the second respondent/defacto complainant has been printed in the cause list, but there is no appearance for the second respondent.

7 Taking into consideration the facts of the case and that the investigation is over in this case and the case is pending for framing of charges and that the appellant is in custody from 09.05.2019, this Court is of the considered opinion that the appeal may be allowed, which is filed against the order passed by the learned II Additional Sessions Judge, Pducherry cum Special Judge, dated 09.09.2019 in CrI.M.P.No.153 of 2019 in Cr.No.52 of 2019, wherein, bail sought for by the petitioners has been rejected.

8 In view of the above reasonings, the appellant is ordered to be enlarged on bail on the following conditions:

a) The appellant/A6 shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only), with two sureties, each for a like sum to the satisfaction of the learned II Additional Sessions Judge, Puducherry.

b) The appellant shall appear before the Trial Court on all working days at 10.30 a.m., and appear before the Orleanpet Police Station every day at 06.30 p.m. until further orders.

c) The appellant/A6 shall not tamper with evidence or witness during trial.

d) The appellant/A6 shall not enter the juridical limits of Ariyakuppam Police Station.

e) The appellant/A6 shall not abscond during or trial.

f) On breach of any of the aforesaid conditions, the learned II Additional Sessions Judge, Puducherry is entitled to take appropriate action against the appellant/A6 in accordance with law as if the conditions have been imposed and the appellant/A6 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].

g) If the appellant/A6 thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

dua

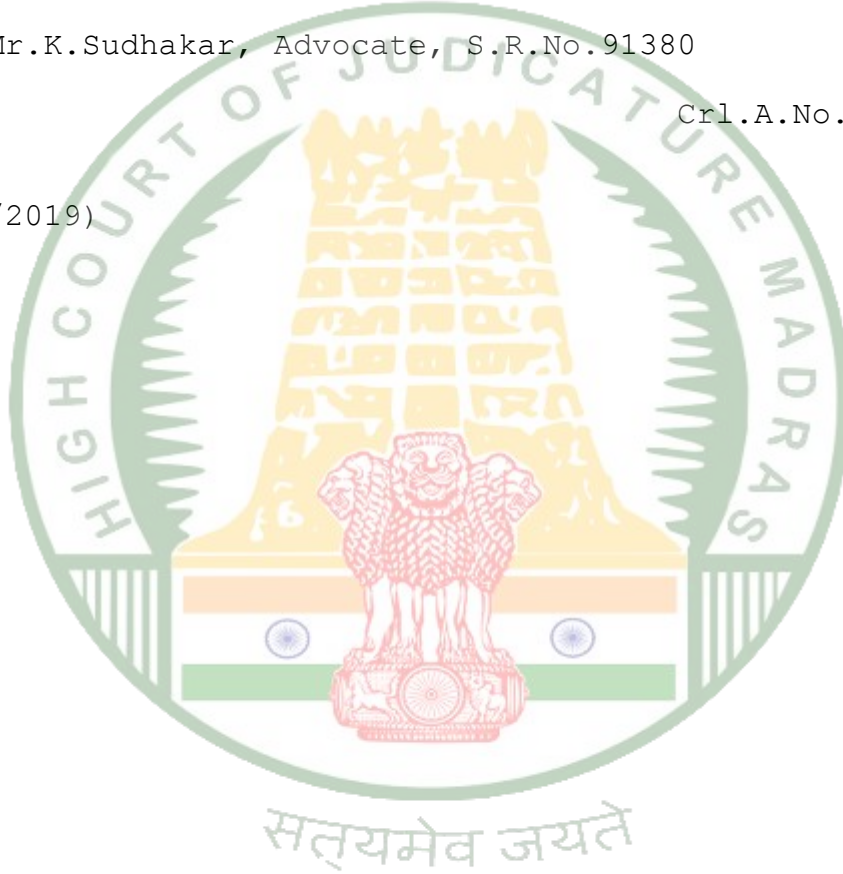
To

1. The Superintendent of Police (South),
Ariyankuppam Police Station,
Through Special Public Prosecutor,
Puducherry, .
2. The Public Prosecutor, Pondicherry.
3. The II Additional Sessions Judge,
Puducherry cum Special Judge under SC & ST Act.

+1 cc to Mr.K.Sudhakar, Advocate, S.R.No.91380

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PA(CO)
SSM(06/11/2019)



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