

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 14.11.2019
CORAM:
THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA
Crl.A.No.737 of 2019

Thiruvenkadam

... Appellant/Accused

Vs.

1.The State Rep.by
Inspector of Police,
Kalasapakkam Police Station,
Kalasapakkam,
Thiruvannamalai District. ...1st Respondent/Complainant

2.Gandhi
[Amended as per order in
Crl.MP.No.15691 of 2019 in
Crl.A.No.737 of 2019 dated 01.11.2019]...2nd Respondent/Defacto

complainant

Criminal Appeal filed under Section 14-A of S.C & S.T Act,
seeking to set aside the order dated 26.09.2019, made in
Crl.M.P.No.46 of 2019 passed by the Special Court for SC & ST
(POA) Act, Tiuvannamalai and enlarge the appellant on bail in
Cr.No.381 of 2019 on the file of the respondent police.

For Appellant : Mr.B.Jawajar

For Respondents: Mr.M.Mohamed Riyaz
Additional Public Prosecutor [for R1]

No Appearance [for R2]

J U D G M E N T

This criminal appeal has been filed by the appellant
seeking to set aside the order dated 26.09.2019, made in
Crl.M.P.No.46 of 2019 passed by the Special Court for SC & ST
(POA) Act, Tiuvannamalai and to enlarge the appellant on bail in
Crime.No.381 of 2019 on the file of the respondent police.

2 Brief facts of the case is that the appellant / accused and the deceased Selvi are husband and wife. They belong to different community and their marriage is an inter-caste marriage. The said Selvi used to talk in mobile phone with unknown persons and the appellant / accused doubted the fidelity of the deceased Selvi, due to which, there was misunderstanding between them. Further allegation is that due to the family quarrel which erupted on 12.09.2019, the appellant / accused assaulted the deceased with a knife on her neck and committed murder. Since the deceased belongs to the SC Community, the case has been registered against the appellant / accused for the offences under Sections 302 of IPC and 3 (2) (va) of SC / ST (Prevention of Atrocities) Amendment Act, 2015 on the complaint given by one Gandhi, brother of the deceased.

3 The learned counsel for the petitioner would submit that the alleged offences had happened due to matrimonial dispute between the parties. It is not a case where the petitioner is stated to have committed the murder, since the victim belong to the SC/ST Community. Admittedly, even according to the defacto complainant there was a dispute between the appellant / accused and the deceased within 21 days of marriage and the murder has been committed on account of the appellant / accused suspecting the fidelity of the deceased. He would further submit that the appellant / accused was arrested on 13.09.2019 and he is in custody for more than 60 days. He would further submit that the respondent has almost completed the investigation and the question of tampering with the evidence will not arise and hence, would pray for setting aside the order of dismissal and pray for grant of bail.

4 The learned Additional Public Prosecutor has filed a counter on behalf of the 1st respondent and he would submit that the appellant / accused suspecting the fidelity of his wife and had committed the murder. Since the deceased belongs to the SC Community, the case has been registered under Sections 302 of IPC and u/s. 3 (2) (va) of SC / ST (Prevention of Atrocities) Amendment Act, 2015. He would further submit that the investigation is still pending and the viscera report is yet to be received from the Forensic Lab, Vellore.

5 Notice was ordered to the 2nd respondent / defacto complainant, brother of the deceased. Though private notice has been served and affidavit of service has been filed and the name is printed in the list, there is no appearance for the 2nd respondent.

6 Heard the learned counsel for the appellant and the learned Additional Public Prosecutor for the first respondent.

7 On a perusal of the facts, this Court is able to see that the occurrence is alleged to have happened on account of the matrimonial dispute. The petitioner is in custody for more than 60 days and the investigation is pending. This Court is of the opinion that the criminal appeal can be allowed and the appellant be released on bail, on imposition of condition. Accordingly, this Criminal Appeal appeal is allowed, the appellant is ordered to be enlarged on bail on the following conditions:-

- i. The Appellant shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with two sureties, each for a like sum to the satisfaction of the Special Court for SC & ST (POA) Act Cases, Tiruvannamalai.
- ii. The Appellant shall stay at Trichy and report before the Palakarai police station every day at 10.30 a.m., until further orders.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

bri

To

1. The Special Court for SC & ST (POA) Act Cases,
Tiruvannamalai.
2. The Inspector of Police,
Kalasapakkam Police Station,
Kalasapakkam,
Thiruvannamalai District.
3. The Inspector of Police
Palakarai Police station
Trichy
4. The Public Prosecutor,
High Court, Madras.

5. The Superintendent
The Central Prison,
Vellore.

+1 cc to Mr.B.Jawahar Advocate sr94739

Cr1.A.No.737 of 2019

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