

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2019

CORAM:

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

Crl.A.No.727 of 2019

Nithya

... Appellant/A4

Vs.

1.State rep by
Inspector of Police,
Sankari Police Station,
Salem District.
(Crime No.282/2019)

2. Natesan

... Respondents

R2 impleaded as per order in Crl.M.P.No.15365 of 2019
in Crl.A.No.727 of 2019 dated 24.10.2019.

PRAYER: The Criminal Appeal has been filed, under Section14-A(2) of the Scheduled Caste and Scheduled Tribe (PoA) Amended Act 2015, seeking to set aside the order dated 15.10.2019, made in C.M.P.No.3140/2019, by the learned Sessions Judge, Salem (The Special Judge for SC/ST Act Case, Salem) and consequently enlarge on bail in Crime No.282/2019 on the file of the 1st respondent police.

For Appellant : Mr.B.Vasudevan

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

: Mr.R.Sankara subbu
for M/s.Rajinikanth for R2

JUDGMENT

This Criminal Appeal has been filed by the appellant/A4, seeking to set aside the order dated 15.10.2019, made in C.M.P.No.3140/2019, by the learned Sessions Judge, Salem (The Special Judge for SC/ST Act cases) Salem under Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Amended Act, 2015.

2. The case of the prosecution is that on 03.09.2019 at about 11:30 a.m. when the defacto complainant was grazing cattles, A1 Chockkalingam had come to the place and scolded the defacto complainant by using his caste name and assaulted him with stone and A2 has caused injury on his right elbow and Rajammal-A3 caused injury on his left chest by using stone and threatened his life. A4 Nithya assaulted him with her hand. Based on the complaint given by the defacto complainant Natesan case in Crime No.282 of 2019 was registered by the respondent police for offences under Section 3(1)(s), 3(2)(va) SC/ST Act, r/w Sec.147, 148, 294(b), 323, 324, 506 (ii) IPC. The appellants were arrested on 26.09.2019 and remanded to judicial custody on the same date. The petition filed before the trial Court in C.M.P.No.3140 of 2019 seeking for bail was dismissed, against which the present criminal appeal has been filed.

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

4. The learned counsel for the appellant submitted that there was an existing civil dispute between the petitioner family and one Saravanan and that the said Saravanan had instigated the defacto complainant to give false complaint against her. He would further submit that the petitioner is in custody for more than 37 days and the major part of the investigation is over and the appellant is a lady.

5. The learned counsel for the second respondent/defacto complainant vehemently opposed stating that the appellant who belong to predominant community had grabbed 5 acres of land which is in possession of the defacto complainant who belongs to the oppressed community and she has taken the law into her own hands and assaulted the defacto complainant and his relatives. He would further submit that the appellant through her relatives wielding threat on the defacto complainant to withdraw the complaint and thereby would seek to dismiss the appeal.

6. The Additional Public Prosecutor submitted that a case has been registered in crime No.282 of 2019 on the complaint given by Natesan. As per the defacto complainant, the appellant who belongs to the upper caste community had assaulted him and his relatives and caused injury. He further submitted that the injured had been discharged from hospital and the investigation is in the preliminary stage and thereby would oppose for granting of bail.

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/A4 is ordered to be enlarged on bail on the following conditions:-

- a) The Appellant/A4 is ordered to be released on bail, on 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 Sessions Judge, Salem (The Special Judge for SC/ST Act case, Salem).
- b) The appellant/A4 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/ A4 shall report before the respondent Police Station every day at 10.30 a.m., for a period of one week and thereafter as and when required by the respondent police.
- 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].

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Principal Sessions Judge, Salem
(The Special Judge for SC/ST Act Case, Salem)
2. The Inspector of Police,
Sankari Police Station,
Salem District.
3. The Judicial Magistrate No.1,
Sankari

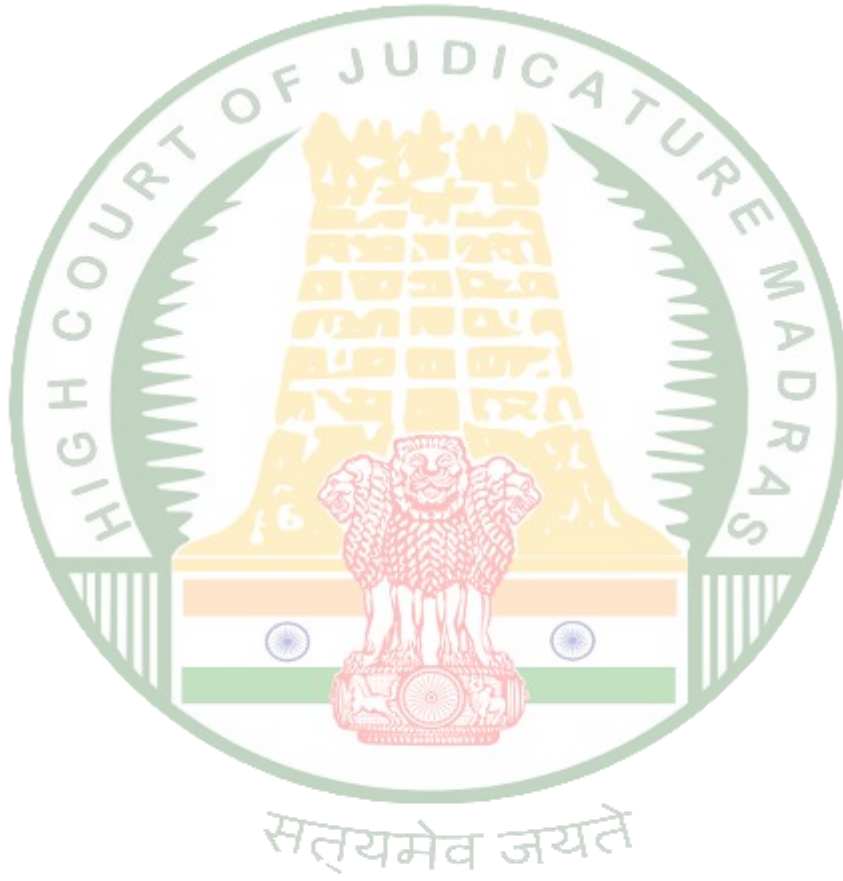
4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Rajanikanth, Advocate, SR.No.90621

+1cc to Mr.B.Vasudevan, Advocate, SR.No.22429

Crl.A.No.727 of 2019

Kak(04/11/2019)



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