

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 26.11.2019
CORAM:
THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA
Crl.A.No.771 of 2019

R.Shankar

... Appellant/A-1

Vs.

1. State rep by
The Inspector of Police,
Ammamet Police Station,
Salem City, Salem District.1st Respondent/Complainant
2. Poongodi2nd Respondent/Defacto
Complainant

PRAYER: This Criminal Appeal has been filed by the Appellant/A-1, seeking to call for the records pertaining to the order dated 25.10.2019, made in Crl.M.P.No.3389/2019, by the Principal Sessions Judge and Special Judge for Prevention of SC & ST Atrocities Act, Salem and to set aside the same and to enlarge the appellant on bail in connection with Crime No.440/2019, on the file of the respondent police.

For appellant : Mr.R.Nalliappan

For Respondents : Mr.M.Mohamed Riyaz, APP
for R-1

: No appearance for R-2

ORDER जयते

1. This criminal appeal has been filed by the Appellant/A-1, against the order passed in Crl.M.P.No.3389/2019, dated 25.10.2019, by the Principal Sessions Judge and Special Judge for Prevention of Scheduled Caste and Scheduled Tribes Atrocities Act, Salem, dismissing the petition for grant of bail in Crime No.440/2019.
2. This Court heard the learned counsel for the appellant and the learned Additional Public Prosecutor appearing for the 1st respondent.

3. The brief facts of the case as per the de-facto complainant Poongodi is that the de-facto complainant got acquainted with the appellant and due to her relationship, she became very close and she had become six months pregnant and when she had asked the appellant, to marry her, the appellant's sister Meena had told her to abort the child and take money and get away from them and thereafter, they compromised their disputes between them and that on 04.09.2019, the marriage between the de-facto complainant and the appellant took place on Belur Easwaran Kovil and that they set up their matrimonial Home at Masinaickenpatty, E.B. Colony and that the de-facto complainant was living with the appellant and his mother. While so, on 30.09.2019, at around 11 p.m., the appellant had come home in an inebriated condition along with his sister and sister's husband and assaulted the de-facto complainant and scolded her by using his caste name and had assaulted her Apprehending danger to her life, the de-facto complainant had escaped and got herself admitted in the Government Hospital. Based on the complaint given by the de-facto complainant, the case in Crime No.440/2019, was registered against the appellant and three others for the offence under Sections 294(b), 323, 324, 506 (ii) of IPC read with 3(1)(r), 3(1)(s) of Scheduled Caste and Scheduled Tribe, Prevention of Atrocities Amendment Act, 2015. The case was registered on 10.10.2019 and the appellant was arrested on 11.10.2019 and remanded to judicial custody on the same day. The appellant had filed bail application in Crl.M.P.No.3389/2019 and the same was dismissed by the Principal Sessions Court/Special Court, on 25.10.2019. As against the same, the present appeal has been filed.
4. The learned counsel for the Appellant/A-1, would submit that the Matrimonial dispute between the parties have been blown out of proportion and it is not a case where the petitioner committed the offence since, the de-facto complainant belong to the Scheduled Caste Community. Admittedly, there was a delay in giving complaint and the incident was said to have happened on 30.09.2019 and the complaint was given to the respondent on 10.10.2019. He would further submit that the relatives of the wife of the petitioner had instigated for giving false complaint and the case is foisted and further the major part of the investigation is over and that the petitioner is in custody for 46 days and thereby, would seek for allowing the appeal and grant bail to the petitioner.
5. The 1st respondent has filed a counter. The learned Additional Public Prosecutor would submit that the de-facto complainant is the wife of the appellant and that the

appellant was earlier married and thereafter, he became acquainted with the de-facto complainant due to which, she became pregnant and they got married and after the marriage, in an inebriated condition, the appellant along with his relatives abused the de-facto complainant with filthy language by using her caste name and thereafter, assaulted her and that she got admitted in the hospital and he would further submit that investigation is still pending and the other accused are yet to be arrested.

6. Notice was issued to the de-facto complainant and the Affidavit of Service has been filed. The name of the de-facto complainant is also printed in the list, however, there is no representation.
7. I have gone through the materials placed on record.
8. A perusal of the complaint shows that the petitioner and the de-facto complainant are husband and wife and while they were living together, the petitioner in an inebriated condition has abused the de-facto complainant and also assaulted her. Taking into consideration, the submissions made in the appeal and that the petitioner was arrested on 10.10.2019 and that now he is in custody for about 46 days, I am inclined to allow the appeal and direct the release of the petitioner on bail.
9. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel on either side, this criminal appeal is allowed and the Appellant/Accused is ordered to be enlarged on bail 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 Principal Sessions Judge and Special Judge for Prevention of SC & ST Atrocities Act, 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.

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c) The Petitioners/Accused shall appear before the respondent police every day at 10.30 a.m., until further orders.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To:

- 1.The Principal Sessions Judge and Special Judge for Prevention of SC & ST Atrocities Act, Salem.
 2. The Inspector of Police, Ammapet Police Station, Salem City, Salem District.
 - 3.The Public Prosecutor, High Court, Madras.
 4. The Central Prison, Salem.
- +1 cc to M/s.R.Nalliyappan Advocate sr98313

CrI.A.No.771 of 2019

aa26/11/2019

सत्यमेव जयते

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