



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	27/04/19
Date of Judgment	09/05/19

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THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI****Cr1.A.(MD)No.154 of 2019**

Michael Aswin : Appellant/Petitioner/A5

Vs.

1.State rep. by

The Assistant Commissioner of Police,
Tirunelveli City,
Tirunelveli District.

2.State rep. by

The Inspector of Police,
Tirunelveli Medical College Police Station,
Tirunelveli City.: 1st and 2nd Respondents/
1st and 2nd Respondents/Complainants

3.Kumar

: 3rd Respondent/3rd Respondent/
/De-facto complainant

4.Geetha @ Vijayalakshmi

: 4th Respondent/4th Respondent/
Victim(L.W.2)

Prayer: Criminal Appeal filed under Section 14-A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Amendment Act 2015 (1/2016) against the order passed by the II Additional District and Sessions Judge(PCR), Tirunelveli, dated 28.01.2019 made in Cr.M.P.No.136 of 2019 in S.C.No.68 of 2018 and enlarge the appellant on bail by allowing this Appeal.

For Appellant : Mr.K.Prabhu

For 1st Respondent : Mr.A.Robinson,
Government Advocate
(Criminal side)

For R3 and R4 : No appearance

J U D G M E N T

This Criminal Appeal is directed against the against the order passed by the II Additional District and Sessions Judge(PCR), Tirunelveli, dated 28.01.2019 made in Cr.M.P.No.136 of 2019 in S.C.No.68 of 2018 and enlarge the appellant on bail.



2.The Appellant/A5, who was arrested and remanded to judicial custody on 27.02.2018 for the offences punishable under Sections 34, 147, 148, 447, 294(b), 324, 302, 506(ii) and 120(B) IPC and Sections 3 and 4(a) of Explosive Substance Act r/w Section 3(1)(r), 3(1)(s) of SC/ST (POA) Amendment Act 2015 and Section 3(2)(V) of SC/ST (POA) Act 1989, in Crime No.30 of 2018 on the file of the respondent police, seeks appeal bail.

3.According to the prosecution, due to civil dispute, on 26.02.2018, the appellant along with the other accused trespassed into the house of the de-facto complainant with weapons and country bomb and threatened the de-facto complainant and his family members by using caste name and attacked them with weapons, caused grievous injuries and committed murder and also thrown country bomb.

4.The learned counsel appearing for the appellant/A5 submitted that the appellant/A5 is an innocent person and he has been falsely implicated in this case and he has nothing to do with the alleged occurrence and that the appellant/A5 is in jail since 27.02.2018 and he is only bread winner of the family and prays that the criminal appeal has to be allowed.

5.The learned Government Advocate (Criminal side) appearing for the respondents 1 and 2 submitted that this is a case of murder and the appellant/A5 is having previous cases of similar nature and if he is released on bail, he will tamper the witnesses and prays for dismissal of the criminal appeal.

6.Heard the learned counsel appearing on either side and perused the materials available on record.

7.However, considering the facts and circumstances of the case and also considering the fact that the appellant is in jail since 27.02.2018 and he is only bread-winner of the family, this Court is inclined to allow the Criminal Appeal by setting aside the order, dated 28.01.2019 passed in Cr.M.P.No.136 of 2019 in S.C.No.68 of 2018, by the II Additional District and Sessions Judge(PCR), Tirunelveli.

8.Accordingly, the Criminal Appeal is **allowed** and the order, dated 28.01.2019 passed in Cr.M.P.No.136 of 2019 in S.C.No.68 of 2018 by the Family Court/II Additional District and Sessions Judge (FAC), Tirunelveli, is set aside. The appellant/A5 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 each for a like sum to the satisfaction of the learned II Additional District and Sessions Judge, Tirunelveli and on further condition that:

[a]the appellant shall stay at Cuddalore and report before the Judicial Magistrate No.1, Cuddalore, daily twice at 10.30 a.m and 5.00 pm until further orders;



[b]the appellant shall not tamper with evidence or witness either during investigation or trial;

[c]the appellant shall not abscond either during investigation or trial; and

[d]On breach of any of the aforesaid conditions, the Trial Court is entitled to take appropriate action against the appellant in accordance with law, as if the conditions have been imposed and the appellant released on bail by the Trial Court itself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

Sd/-

Vacation Officer/
Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

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To,

1.The II Additional District and Sessions Judge,
Tirunelveli.

2.The Judicial Magistrate No.I, Cuddalore.

3.Thro. The Chief Judicial Magistrate, Cuddalore.

4.The Assistant Commissioner of Police,
Tirunelveli City,
Tirunelveli District.

5.The Inspector of Police,
Tirunelveli Medical College Police Station,
Tirunelveli City.

6.The Superintendent, Central Prison,
Palayam Kottai.

7.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC TO MR.K.PRABHU, Advocate Sr. No. 65493

Judgment made in

Cr1.A.(MD)No.154 of 2019

09.05.2019