

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2020

CORAM:

THE HONOURABLE MR.JUSTICE **M.NIRMAL KUMAR**

CRL.O.P.No.7380 of 2020

1. Anand Raj @ kutty,
S/o.Asaithambi,
No.148/26, 8th Cross Street, Annai Sathya Nagar,
East Annanagar, Chennai – 600 102.
2. Somasundaram,
S/o.Kumar,
No.285, 10th Cross Street, Annai Sathya Nagar,
East Annanagar, Chennai – 600 102.
3. Kumar,
S/o.Periyasamy,
No.285, 10th Cross Street, Annai Sathya Nagar,
East Annanagar, Chennai – 600 102.
4. Manikandan @ Mani,
S/o.Kannan,
No.106, 9th Street, Annai Sathya Nagar,
East Annanagar, Chennai – 600 102.
5. Kathar Moitheen,
S/o.Moitheen Basha,
No.241, 9th Street, Annai Sathya Nagar,
East Annanagar, Chennai – 600 102.

... Petitioners

Vs.

State rep.by
Inspector of Police,
Anna Nagar, K-4 Police Station,
Chennai.

Crime No.378 of 2020

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C., praying, to enlarge the petitioners /accused on bail and release them from the custody in Crime No.378 of 2020 pending on the file of the respondent police.

For Petitioners : Mr.R.Krishnamurthy
For Respondent : Mr.C.Iyyappa Raj,
Additional Public Prosecutor

ORDER

The petitioners, who were arrested and remanded to judicial custody on 20.04.2020 for the offences punishable under Sections 147,148,294(b), 332, 324, 307, 506(ii) of IPC r/w 269 IPC & 3(1) TNPPDL Act in Crime No.378 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant is working as Assistant Engineer, Chennai Corporation, Chennai. On 19.04.2020, the defacto complainant along with other officials have gone to velankadu burial ground, Chennai, for burial of the dead body of Dr.Simon, who died due to Covid-19. The petitioners along with other accused came to the burial ground and objected the burial of the dead body. Further, the residents of the said area assembled there and attacked the defacto complainant and others officials with stones and wooden logs, due to which, the defacto complainant and others sustained serious injury and they were obstructed from carrying out their duty. The local residents also damaged the ambulance vehicle. Hence, this complaint.

3. The learned counsel for the petitioners submitted that the petitioners are the local residents. On hearing the sound of shouting, they came out from the house and found that the local residents arguing with the Corporation officials with regard to the burial of the body which was affected by Covid-19. The local residents who are uneducated, had apprehension that the burial of the body which was affected by Covid-19, would cause disease to the local residents and they would also be affected with Covid-19. The officials using police force, attacked the local residents. He also submitted that the body of Dr.Simon was not allowed for burial in Kilpauk Cemetery and thereafter, it was brought to Velankadu burial ground which has caused mystery and suspicion in the minds of the local residents. Hence, they objected for the burial of the dead body. To disperse the crowd, the police have used the force for lathi charge and everybody ran away for shelter to avoid being lathi charged. Due to which, the vehicle was also damaged. Thereafter, the petitioners were arrested by the police and shown as accused in this case. The petitioners are innocent and have not indulged in any of the offence as alleged in the complaint. Moreover, the petitioners are kept in judicial custody for more than 50 days. Hence, he prayed for grant of bail to the petitioners.

4. The learned Additional Public Prosecutor submitted that the Assistant Engineer, Chennai Corporation, lodged a complaint stating that the respondent

authorities had gone to the burial ground of Velankadu for burial of the dead body of Dr.Simon who died due to Covid-19. The local residents have not allowed the burial of the dead body and obstructed them from carrying out their official duty. The officials already explained the local residents that all precautionary measures are being taken and the burial of the dead body would not affect the environment. The local residents were adamant and attacked the officials and damaged their vehicle. Hence, he vehemently opposed for grant of bail to the petitioners. He also submitted that some of the accused in this case were detained under Goondas Act.

5. It is seen that, earlier, the Corporation officials took the dead body to Kilpauk Cemetery, there the local residents objected the burial of the dead body of Dr.Simon. Later, they took the dead body of Dr.Simon to Velankadu burial ground at odd hours, which caused doubt in the mind of the local residents of the said area. There were already wide rumour spreading around the country, including in the social media that the dead body of the Covid-19 affected would cause infection and also would affect the environment. Hence, the petitioners have over reacted.

6. In view of the above facts and also taking note of the fact that the third petitioner is in judicial custody from 20.04.2020, this Court is inclined to grant

bail only to the third petitioner, subject to the following conditions:

(a) The third petitioner shall execute his own bond for a sum of Rs.10,000/- (Rupees Ten thousand only) before the Superintendent of the concerned prison, in which the third petitioner has been confined on his release;

(b) the third petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate within a period of 15 days from the date of lifting of lockdown and commencement of regular functioning of Court below, failing which the bail granted by this Court shall stand dismissed automatically;

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(d) the third petitioner shall report before the respondent police as and when required for interrogation; सत्यमेव जयते

(e) the third petitioner shall not commit any offences of similar nature;

(f) the third petitioner shall not abscond either during investigation or trial;

(g) the third petitioner shall not tamper with evidence or witness either during investigation or trial;

(h) on breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the third

petitioner in accordance with law as if the conditions have been imposed and the third 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]***.

(i) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

7. With the above directions, this Criminal Original Petition is ordered as far as the third petitioner is concerned. Since the other petitioners have been detained under Goondas Act, as far as they are concerned, this petition stands dismissed.

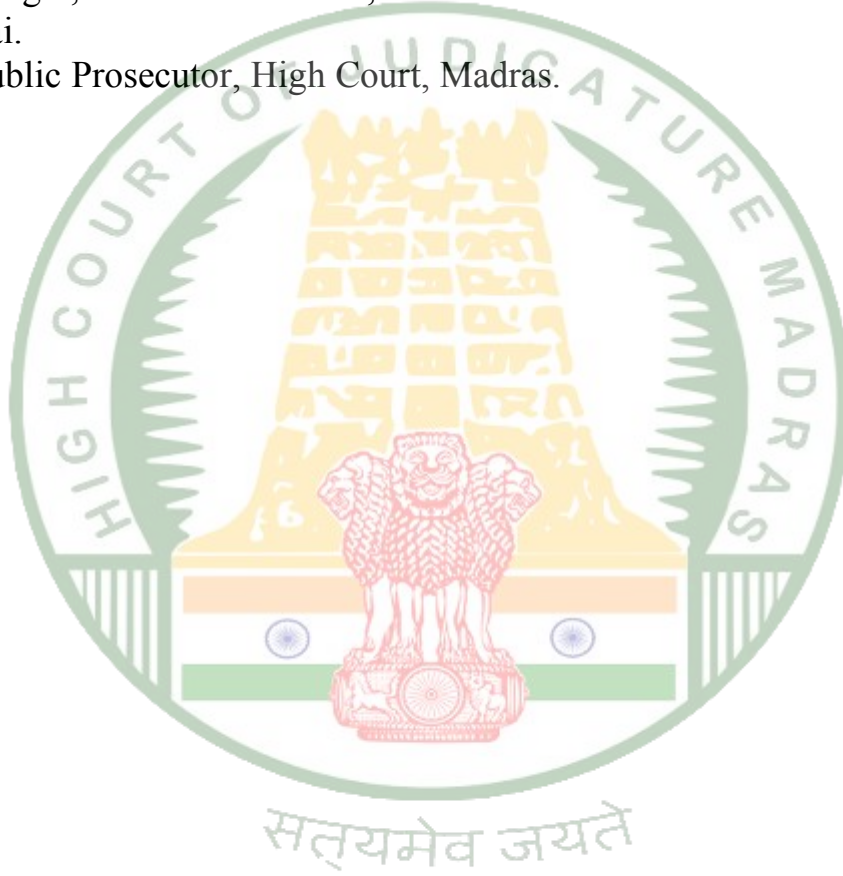
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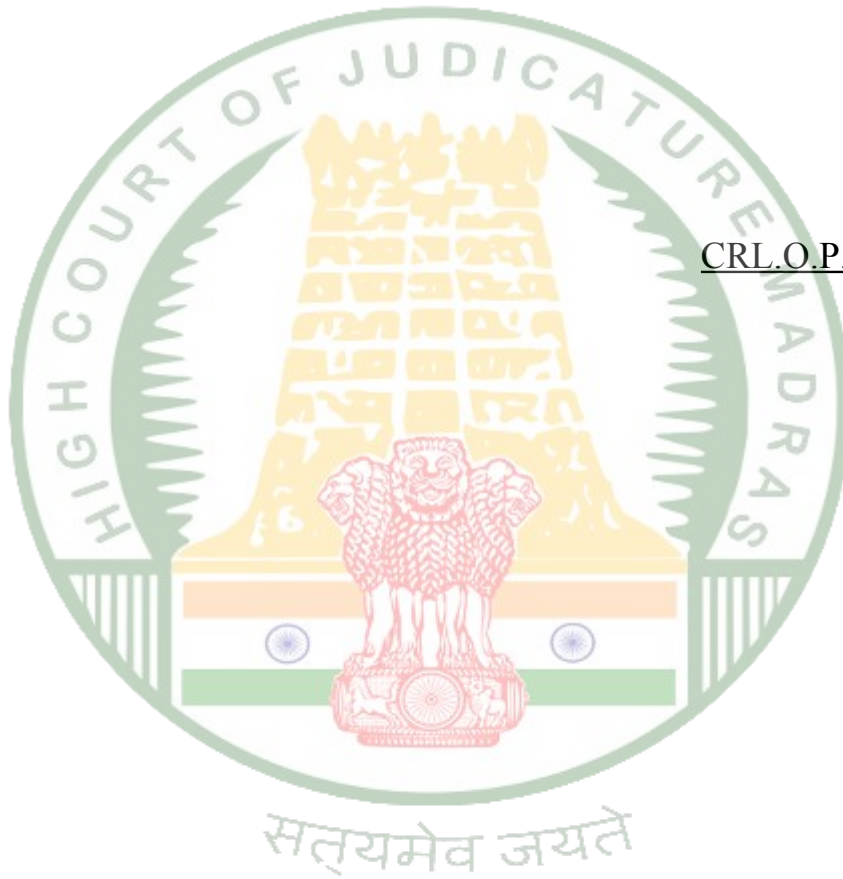
To

1. The Principal Session Judge, Chennai.
2. The Superintendent, Sub-Jail, Saidapet, Chennai.
3. The Inspector of Police,
Anna Nagar, K-4 Police Station,
Chennai.
4. The Public Prosecutor, High Court, Madras.



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M.NIRMAL KUMAR, J.
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