

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.432 of 2020

Raja

... Appellant

Versus

State, represented by

1.The Deputy Superintendent of Police,
Kangayam Range,
Tiruppur,
Tiruppur District.

2.The Inspector of Police,
All Women Police Station,
Kangayam,
Tiruppur District.
(Crime No.8 of 2020).

3.Kolandayan

... Respondents

PRAYER: Criminal Appeal filed under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989, to set aside the judgment and order in E.C.M.P.No.22 of 2020, dated 09.09.2020 passed by the Magalir Neethimandram, Tiruppur and enlarge the appellant on bail, pending investigation in Crime No.8 of 2020 on the file of the respondent herein to secure the ends of justice.

For Appellant	:	Mr.R.Sankarasubbu
For R1	:	Mr.C.Raghavan, Government Advocate [Crl. Side]
For R2	:	No Appearance

JUDGMENT

The appellant, who is sole accused in Crime No.8 of 2020, for offence under Sections 366(A) IPC, Section 5(1) r/w 6 of the Protection of Children from Sexual Offences Act, 2012 and Section 9 of the Prohibition of Child Marriage Act and Section 3(1)(w)(i) r/w 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, has filed the appeal to set-aside the order dated 09.09.2020, made in E.C.M.P.No.22 of 2020, passed by the learned Judge, Family Court, Tiruppur, Full Additional Charge of Sessions Judge Magalir Neethimandram (Fast Track Mahila Court), Tiruppur.

2.The 3rd respondent was served notice on 05.11.2020. The copy of the served notice was produced and his name also printed in the cause list.

3.The gist of the case is that the 3rd respondent/defacto complainant on 05.07.2020 has lodged a complaint to the 2nd respondent that he was working in EMS Coconut Plantation, Kangeyam and he has minor daughter. On 01.07.2020, the 3rd respondent woke up for the nature call at about 01.00 a.m. At that time, he found that his minor daughter were not available and he and his wife made search in and around the place. The appellant Raja, who was

working as as Loadman in lorry, used to come and collect coconut from the EMS Coconut grove. During that time, he developed some relationship with minor daughter, the 3rd respondent objected. When the 3rd respondent went in search of the appellant, he was not available and his mobile phone also switched off. Hence, he lodged a complaint to the 2nd respondent. During investigation, it came to know that the victim minor girl had eloped with the appellant, got married in local temple and lived as husband and wife. The appellant was arrested on 11.07.2020.

4.The learned counsel for the appellant submitted that the appellant and the victim girl were in love with each other. The victim girl is not minor for the purpose of initiating the case, she was projected as a minor girl. The learned counsel further submitted that the victim belongs to Scheduled Caste, knowing the same, the love between them continued. Initially, the appellant objected the relationship with the victim. It is the victim, who forced the appellant to join her, since the parents of the victim were making arrangement for marriage against her wish. Hence, the victim girl threatened to consume poison and end her life. The appellant having no other option had to join the victim.

5.The learned counsel further submitted that the appellant is even today is willing to marry and join the victim and she is also interested to join the appellant. It is the victim's parents, who are resisting the same. The appellant was arrested on 11.07.2020 and he is in confinement from thereon. Further, the investigation in this case is completed and the charge sheet filed before the trial Court and the appellant to engage counsel instruct him and to prepare for defending the case during the trial.

6.The learned Government Advocate [CrI. Side] appearing for the respondent submitted that the 3rd respondent lodged a complaint to the 2nd respondent that his minor daughter was found missing on 01.07.2020 at early hours. The 3rd respondent suspected the appellant, who was working as loadman, who used to visit the EMS Coconut grove for collecting coconut, had developed relationship with his minor daughter. The appellant in the guise of marriage had taken away the victim and had physical relationship and committal sexual assault on her. Thereafter, the appellant was arrested, the victim girl was secured and sent to medical examination, her statement under Section 161 Cr.P.C., was recorded. In the statement under Section 161 Cr.P.C., she stated that she was kidnapped by the appellant, who had forcible sexual relationship with her. On completion of investigation, now charge

sheet filed in Special Sessions Case No.62 of 2020 before the learned Judge, Family Court, Tiruppur, Full Additional Charge of Sessions Judge Magalir Neethimandram (Fast Track Mahila Court), Tiruppur.

7.On considering the rival submissions and on perusal of the materials, it is seen that the victim is minor girl and the appellant is aged about 26 years. The appellant had already got married with one lady and she eloped with someone, thereby he developed relationship with the victim girl. Due to which, both the appellant and the victim eloped, got married in local temple and lived as husband and wife. Though the appellant desires to join the victim girl as husband, the parents of the victim fear for the life of their daughter. The victim girl belongs to scheduled caste community and the appellant belong to Devar community. It is to be seen that these marriages are not accepted in the appellant's community and there was a life threat to the victim girl. The appellant not knowing the consequences, had committed the offence. In this case, the investigation was completed and charge sheet filed and the appellant to instruct his advocate to defend his case.

8.In view of the above, this Court is inclined to grant bail to the

appellant. The Criminal Appeal is allowed and the order dated 09.09.2020, made in E.C.M.P.No.22 of 2020, passed by the learned Judge, Family Court, Tiruppur, Full Additional Charge of Sessions Judge Magalir Neethimandram (Fast Track Mahila Court), Tiruppur, is set aside. The appellant is ordered to be released on bail, subject to the following conditions:-

- The appellant shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) within a period of 15 working days from the date of receipt of a copy of this order with two sureties each for a like sum to the satisfaction of the learned Judge, Family Court, Tiruppur, Full Additional Charge of Sessions Judge Magalir Neethimandram (Fast Track Mahila Court), Tiruppur, failing which, the Criminal Appeal for bail shall stand dismissed and on further condition that;
- the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Judge may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;
- the appellant shall appear before the trial Court on all hearing dates during trial.
- the appellant shall not commit any offences of similar nature;
- the appellant shall not abscond either during investigation or trial;
- the appellant shall not tamper with evidence or witness either during investigation or trial;
- on breach of any of the aforesaid conditions, the learned Judicial Magistrate/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 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]***;

- if the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

20.11.2020

Speaking order/Non-speaking order

Index: Yes/No

Internet: Yes/No

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To

- 1.The Family Court, Tiruppur,
Full Additional Charge of Sessions Judge Magalir Neethimandram
(Fast Track Mahila Court),
Tiruppur.
- 2.The Deputy Superintendent of Police,
Kangeyam Range,
Tiruppur,
Tiruppur District.
- 3.The Inspector of Police,
All Women Police Station,
Kangeyam,
Tiruppur District.
- 4.The Superintendent,
Central Prison, Coimbatore.

M.NIRMAL KUMAR.J.,

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5.The Public Prosecutor,
High Court, Madras.



CrI.A.No.432 of 2020

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