

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.A.No.394 of 2020

1.Giri Sankar,
S/o.Raja.

2.Raja,
S/o.Chinnasamy.

3.Nabisa,
W/o.Raja.

... Appellants

Versus

1.State Rep by its,
The Inspector of Police,
Deevattipatti Police Station,
Salem District.
(Crime No.597 of 2020).

2.Sasi Priya,
D/o.Selvam.

... Respondent

PRAYER: Criminal Appeal filed under Section 14 A(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989, to call for the records pertaining to the bail dismissal order passed by the learned Principal Sessions Judge, Salem in CrI.M.P.No.2561 of 2020 dated 16.09.2020 and set aside the same and to enlarge the appellants on bail.

For appellants : Mr.M.Subash
For Respondent : Mr.C.Iyyappa Raj,
Additional Public Prosecutor

JUDGMENT

The appellants, who are the accused in Crime No.597 of 2020, for offence under Section 294(b), 417, 506(i) IPC and Section 4 of the Tamil Nadu Prohibition of Women Harassment Act r/w Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, have filed the appeal.

2.Private notice was taken to the 2nd respondent, which was returned as 'Door Locked'. The 1st respondent Police was instructed to inform the 2nd respondent about the pendency of the above case. As per order of this Court dated 14.10.2020, the notice was served to the 2nd respondent.

3.The gist of the case is that the 2nd respondent is the defacto complainant in this case. On 20.08.2020, the 2nd respondent lodged a complaint to the 1st respondent that she belongs to Hindu Adi Dravida Community and studied Diploma in Engineering. The 2nd respondent and the 1st appellant were in love affair with each other and the appellants belong to Vanniyar Community. The 2nd and 3rd appellants, on coming to know about the love affair between them, on 15.08.2020, went to the house of the 2nd

respondent and questioned the same. At that time, the 3rd appellant used abusive and prohibitory words against the 2nd respondent and threatened her that by using the love affair with his son whether she intends to take away the property of them. The 2nd appellant also abused her and her parents and threatened them to do away and both of them left. Unable to tolerate, the 2nd respondent was dejected and attempted to commit suicide by hanging. Later, she was saved and admitted in L.R Hospital, where she took treatment. On 17.08.2020, at about 09.00 p.m., the 2nd respondent called the 1st appellant and informed the happenings and questioned him. At that time, he abused her by calling caste name and stated that he will not marry her and her caste would be an obstacle for marriage. Hence, the above complaint.

4.The learned counsel for the appellants submitted that on bare reading of the complaint, it is seen that the usage of abusive words was not in a public place and public hearing. As parents, the 2nd and 3rd appellants had gone to the house of the 2nd respondent and questioned her relationship with their son/A1. The learned counsel further submitted that the social set up is such that it would not be possible for both the 2nd respondent and the 1st appellant to lead a happy married life and the same was only explained and reasoned out to the 2nd respondent and her parents, which offended the 2nd

respondent that the 2nd and 3rd appellants were not agreeing for their marriage and lodged a false complaint against the appellants as though the appellants abused and threatened the 2nd respondent and her parents by using the caste name. The 2nd respondent is living in her village along with all the community people. The 1st appellant did not speak to the 2nd respondent over the phone on 17.08.2020 and abused her. Since provision of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 was invoked, without conducting any enquiry, the 1st respondent arrested the appellants in this case. He further submitted that the appellants are under incarceration for the past 77 days and the investigation almost completed. Hence, he prayed to set aside the order of the Court below and grant bail to the appellants.

5.The learned Additional Public Prosecutor appearing for the 1st respondent submitted that the allegation against the appellants is serious in nature. The 1st appellant was in love affair with the 2nd respondent, who has completed Diploma in Engineering. The 1st appellant knowing the caste and social status of the 2nd respondent, developed love affair with her and promised to marry. The 2nd and 3rd appellants being the parents of the 1st appellant and having racism, had gone to the house of the 2nd respondent,

used abusive words and threatened to do away. Unable to bear the insult, the 2nd respondent attempted to commit suicide by hanging herself. Later, she was timely admitted in the hospital and saved. Thereafter, the 1st appellant started avoiding her and on one such occasion, he contacted her and used abusive words by calling caste name. Not stopping the appellants threatened the 2nd respondent and her family members, the 2nd respondent and her family members fearing for their life, shifted their residence and now staying at Hosur. Hence, he prayed to dismiss the appeal.

6. On considering the rival submissions and on perusal of the materials, it is seen that the 1st appellant and the 2nd respondent were in love with each other for the past one year. As parents, the 2nd and 3rd appellants opposed their love for the reason that the 2nd respondent hails from scheduled caste community. The appellants are under incarceration for the past 77 days and the substantial portion of investigation is completed in this case. Further, to avoid unpleasantness and to remove the apprehension of fear and give confidence to the 2nd respondent, this Court is inclined to grant bail to the appellants, subject to the following conditions:

- The appellants shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each 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 Principal District and Sessions Judge, Salem, failing which, the Criminal Appeal for bail shall stands 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 appellants shall reside within the municipal limit of Erode Town and shall report before the Inspector of Police, Erode Town Police Station, Erode daily at 10.30 a.m., until further orders, except on the dates, when they are required to attend the Court proceedings.
- the appellants shall not commit any offences of similar nature;
- the appellants shall not abscond either during investigation or trial;
- the appellants 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 appellants in accordance with law as if the conditions have been imposed and the appellants 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.

7.In view of the above, the order passed by the trial Court dated 16.09.2020 in Crl.M.P.No.2561 of 2020 is set aside. The appeal is, accordingly, allowed.

05.11.2020

Speaking order/Non-speaking order

Index: Yes/No

Internet: Yes/No

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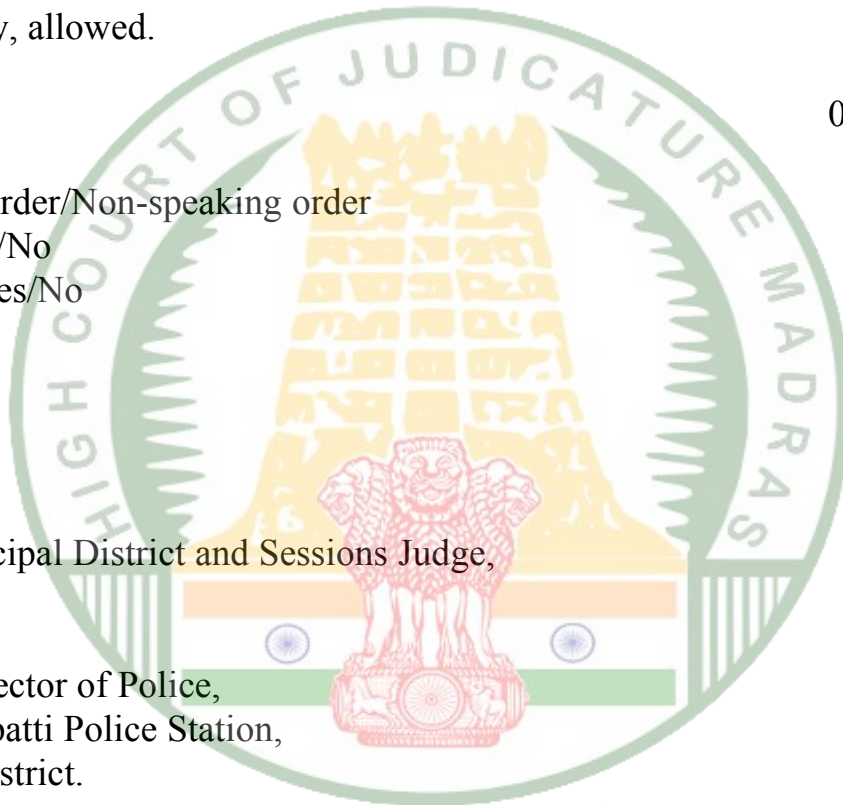
To

1.The Principal District and Sessions Judge,
Salem.

2.The Inspector of Police,
Deevattipatti Police Station,
Salem District.

3.The Superintendent,
Central Prison, Salem.

4.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR.J.,

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