IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2020

CORAM:

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

CRL.A.No.423 of 2020

Manjula
W/o.Kannadhasan (Late) .. Petitioner

/versus/

1.The State, rep by
The Deputy Superintendent of Police,
Panruti,
Cuddalore District.

2.The State, rep by
The Inspector of Police,
Panruti Police Station,
Cuddalore District. .. Respondents
(Crime No.1875 of 2020)

PRAYER: Criminal Appeal filed under Section 14-(A)(2) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities Act), to set aside the order dated 28.09.2020 passed in Cr.M.P.No.330 of 2020 on the file of the learned Sessions Judge, Special Court for Scheduled Caste/Scheduled Tribes (Prevention of Atrociyties), Act, Cuddalore and enlarge the appellant on bail in Crime no.1875 of 2020 on the file of the second respondent.

For Petitioner : Mr.M.Vijaya Ragavan
For Respondents : Mr.C.Raghavan
Government Advocate [Crl. Side]

WEB COPY

http://www.judis.nic.in

JUDGMENT

The petitioner, who is A3 in Crime No.1875 of 2020 for the offence under Section 120(B), 201, 302 IPC r/w Section 3(2)(V) of the SC and ST (POA) Amendment Act, has filed this appeal.

2. Initially, the FIR in Crime No.1875 of 2020 was registered for 'Man Missing', later the case was altered to Sections 302, 201 IPC r/w 3(2)(V) SC/ST (POA) Act 2015 @ Sections 302, 201, 120(B) IPC r/w 3(2)(V) SC/ST (POA) Act 2015.

3. The petitioner was arrested in this case on 21.08.2020, thereafter she moved a bail application before the Special Court of SC/ST Cases, Cuddalore in Cr.M.P.No.330 of 2020, which was dismissed on 28.09.2020 against which the present appeal has been filed.

WEB COPY

4. The gist of the case is that on 13.08.2020, the petitioner herein who is the second wife of one Kannadhasan lodged a complaint stating that she was working under Gopinath Pattar at Krishna Temple, wherein she was in-charge of issuing token. Fourteen years prior, she was married to one

http://www.judis.nic.in

Mohan and having two daughters. Due to some misunderstanding with Mohan, she left him and living with her parents. At that time, she developed relationship with Kannadhasan who was already a married man. Thereafter, Kannadhasan and the petitioner married and lived as husband and wife. Since her husband had not returned back to the house, she lodged a complaint to the second respondent under the case for 'Man Missing'. The petitioner was working under Gopinath Pattar, two years prior, the petitioner and the Gopinath Pattar developed relationship. On coming to know about the relationship, Kanndhasan ill-treated the petitioner which was informed to said Gopinath Pattar. The said Gopinath Pattar along with his friend Tirupati had planned to do away the said Kannadhasan. As per plan, on 12.08.2020, Kannadasan was called to the temple by the said Gopinath to resolve the issue. After the Said Kannadhasan entered the temple, the temple door was closed, he was assaulted with the iron pipe and thereafter the body was buried in the room, where pooja articles were kept.

WEB COPY

5. On 21.08.2020, Gopinath approached the Village Administrative Officer, Panruti and given confession about the happenings. Pursuant to the confession, the body of the Kanndhasan, weapon were recovered. The role

http://www.judis.nic.in

played by the other accused in the murder of Kannadasan came to light. The petitioner herein was arrested on 28.08.2020 at about 7.30 p.m. Thereafter, the case was altered for the offence above mentioned.

6. The contention of the learned counsel for the petitioner is that the petitioner has been falsely implicated in this case, an the confession given by the Gopinath Pattar, the petitioner was working under him. From the confession of the said Gopinath, it is seen that the petitioner was aware of the murder committed by the other accused. The petitioner was not present during the alleged occurrence and the only overtact attributed is that the petitioner had a relationship with A1/Gopinath Pattar and conspired with him. The petitioner is under incarceration for the past 68 days and the investigation almost completed. From the alteration report and the other materials available, the offence under SC/ST Act is not made out.

WEB COPY

7. The learned Government Advocate submitted that the petitioner initially lodged a complaint to the second respondent stating that her husband had not returned after the work and he was found missing and search were made at various places. Thereafter, A1/Gopinath Pattar working

http://www.judis.nic.in

in the Krishna Temple appeared before Village Administrative Officer, Panruti on 20.08.2020 and gave extra judicial confession. The Village Administrative Officer produced the accused to the respondent Police who altered the case based on the confession of A1. The body of Kannadasan and the weapons were recovered from the scene of occurrence/temple. Based on the confession, the other accused were arrested. As far as the petitioner is concerned she was arrested on 21.08.2020. The substantial portion of investigation is completed. The forensic and other reports are awaited. In this case, A1 was granted bail by the Special Court for SC/ST Act, Cuddalore on 20.10.2020. During investigation, A2 committed suicide by hanging himself.

8. Considering the submission and perusal of the materials, it is seen that the petitioner is a lady, she is under incarceration for the past 68 days and the substantial portion of investigation is completed, this Court is inclined to grant bail for the petitioner, subject to the following conditions:

(a)the petitioner 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

WEB COPY

http://www.judis.nic.in

sum to the satisfaction of the learned Sessions Judge, Special Court for Trial Cases under SC and ST Act, Cuddalore, failing which, the Criminal Appeal for bail shall stand dismissed and on further condition that;

(b)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;

(c)the petitioner shall report before the Investigating Officer as and when summoned. The enquiry shall be conducted in the presence of the Women Police.

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

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

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

(g) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]***;

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

9. With the above directions, this appeal is allowed.

29.10.2020

rst

WEB COPY

http://www.judis.nic.in

To:

1.The Sessions Judge, Special Judge,
For Trial Cases under SC & ST Act,
Cuddalore.

2.The Central Prison-Women
Cuddalore

3.The Deputy Superintendent of Police,
Panruti,
Cuddalore District.

4.The Inspector of Police,
Panruti Police Station,
Cuddalore District.

5.The Public Prosecutor,
High Court, Madras.

WEB COPY

M.NIRMAL KUMAR, J.

rst

CRL.A.No.423 of 2020

WEB COPY

29.10.2020