

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2020

CORAM

THE HONOURABLE Mr.JUSTICE **P.N.PRAKASH**

Crl.A.No.435 of 2020

Elumalai

.. Appellant/Accused

Vs.

1.State represented by
The Inspector of Police,
Thellar Police Station,
Thiruvannamalai District.
(Crime No.1533 of 2020)

.. Respondent/Complainant

2.Valli

..Respondent/*de facto*
complainant

Criminal Appeal filed under Section 14A (ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity “the SC/ST Act”) to set aside the order dated 09.10.2020 passed in Crl.M.P.No.448 of 2020 on the file of the Sessions Court, (Special Court for the Cases under the SC/ST Act), Tiruvannamalai and to enlarge the appellant on bail in Crime.No.1533 of 2020 on the file of the first respondent.

For Appellant : Mr.V.Prakash Babu

For R1 : Mrs.P.Kritika Kamal
Govt. Advocate
(Crl. Side)

For R2 : No appearance

JUDGMENT

This case is taken up through video conferencing.

2. This criminal appeal is filed to set aside the order dated 09.10.2020 passed in Crl.M.P.No.448 of 2020 on the file of the Sessions Court, (Special Court for the Cases under the SC/ST Act), Tiruvannamalai and to enlarge the appellant on bail in Crime.No.1533 of 2020 on the file of the first respondent.

3. It is the case of the prosecution that the appellant had illegally electrified his land and on 14.09.2020, while the *de facto* complainant and her husband were passing through the lands of the appellant, the *de facto* complainant's husband suffered electrocution and died.

4. On the complaint lodged by the *de facto* complainant, the first respondent/police registered a case in Crime No.1533 of 2020 on 15.09.2020 for the offences under Section 304(2) IPC, Section 135(1)(a) of the Electricity Act, 2003 and Section 3(2)(v) of the SC/ST Act and arrested the appellant on 15.09.2020.

5. The appellant filed Crl.M.P.No.448 of 2020 in Crime No.1533 of 2020 before the Sessions Court, (Special Court for the Cases under the SC/ST Act), Tiruvannamalai, for bail, which was dismissed on 09.10.2020, aggrieved by which, the appellant has preferred the present appeal.

6. Heard Mr.V.Prakash Babu, learned counsel for the appellant/accused and Mrs.P.Kritika Kamal, learned Government Advocate (Crl.Side) appearing for the first respondent/State. Notice has been served on the second respondent/*de facto* complainant, but, there is no appearance.

7. On a perusal of the FIR, it is seen that while the *de facto* complainant and her husband were walking into the lands of the appellant, the incident had taken place. It is not the case of the prosecution that the

appellant had a previous motive against the deceased. That apart, it is strange as to how the provisions of the SC/ST Act can be invoked in a case of this nature, inasmuch as, electric current does not know caste difference and it can electrocute a Dalit and a Non-Dalit with equal force. It is seen that the appellant has been in custody since 15.09.2020.

8. Taking into consideration the facts and circumstances of the case at hand, this Court is of the view that interests of justice will be served if bail is granted to the appellant.

9. Accordingly, the present appeal is allowed by setting aside the order dated 09.10.2020 passed in Crl.M.P.No.448 of 2020 on the file of the Sessions Court, (Special Court for the Cases under the SC/ST Act), Tiruvannamalai and the appellant is ordered to be released on bail on the following conditions:

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- (i) The appellant shall deposit a sum of Rs.25,000/- as *ad interim* compensation, which shall be paid to the *de facto* complainant, irrespective of any other compensation that should would be entitled to in law;

- (ii) The appellant shall execute a bond for a sum of Rs.10,000/- with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Sessions Court, (Special Court for the Cases under the SC/ST Act), Tiruvannamalai;
- (iii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court, may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;
- (iv) The appellant shall report before the trial Court at 10.30 a.m. on every working days for a period of two weeks and thereafter, as and when required;
- (v) On breach of any of the aforesaid conditions, the learned Sessions Judge 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 Sessions Judge himself as laid down by the Hon'ble Supreme Court in ***P.K.Shaji vs. State of Kerala*** [(2005)AIR SCW 5560]; and
- (vi) If the appellant thereafter absconds, a fresh FIR can be registered under Section 229A IPC;

10.11.2020

To

1. The Sessions Judge,
Special Court for the Cases
under the SC/ST Act,
Tiruvannamalai.
2. The Inspector of Police,
Thellar Police Station,
Thiruvannamalai District.
3. The Superintendent of Prison,
Central Prison, Vellore.
4. The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



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P.N.PRAKASH, J.

nsd



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