

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2020

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.495 of 2020 and
Crl.M.P.No.7909 of 2020

1.Dharmalingam
2.Murugesan
3.Prabakaran ... Appellants

Versus

1.State rep. by its,
The Sub Inspector of Police,
Maruvathur Police Station,
Perambalur District.
(Crime No.1060 of 2020).
2.Jayakumar ... Respondents

[R2 is suo-motu impleaded as per
order of this Court in Crl.A.No.495
of 2020, dated 10.12.2020.]

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 order passed by the learned
Sessions Judge, Special Court for SC/ST (POA) Act, Perambalur in
E.Bail No.874 of 2020, dated 27.11.2020 and enlarge the
appellants/Accused 2, 3 and 5 on bail in connection with the
Crime No.1060 of 2020 dated 06.11.2020 on the file of the
Inspector of Police, Maruvathur Police Station, Perambalur
District.

For Appellants : Mr.C.Selvaraju Senior Counsel
for M/s.C.S.Associates
Mr.P.Ganesan
For R1 : Mr.C.Raghavan,
Government Advocate [Crl. Side]

JUDGMENT

Aggrieved over the order, dated 27.11.2020 in E.Bail.No.874 of 2020 passed by the learned Sessions Judge, Special Court for Scheduled Caste and Scheduled Tribes (Prevention of Atrocities), Act, Perambalur, this Criminal Appeal is filed by the appellants, who are the accused Nos.2, 3 & 5 in Crime No.1060 of 2020, for offence under Sections 147, 341, 294(b), 323, 336, 506 (i) IPC r/w Section 3(1)(r), 3(1)(s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

2.The 2nd respondent lodged a complaint to the 1st respondent on 06.11.2020 stating that on 05.11.2020, at about 01.30 p.m., he was taking his elder sister, who is a physically challenged person, to receive government aid. At about 05.00 p.m., he was purchasing vegetable, at that time, A1 tapped the 2nd respondent on his shoulder and asked whether he was the person, who had driven the vehicle in the street. The 2nd respondent stated yes. Hearing the same, A1 used abusive and prohibitory words by using the caste name in public and reprimanded in the street. The 1st appellant/A2 had joined A1 and also abused him. The 2nd appellant/A3 also threatened to cause bleeding injuries. Offended by the same, the 2nd respondent proceeded to lodge a complaint to the 1st respondent Police. At that time, the accused waylaid the 2nd respondent, near the EB Sub Station, at about 07.15 p.m., the 3rd appellant/A5 along with 13 others restrained the 2nd respondent and assaulted him with stick stones and hands and attempted to kill him. During the assault, they had also used abusive words, called the 2nd respondent by his caste name and beaten him black and blue and left the scene. Thereafter, he was taken to the Government General Hospital by 108 Ambulance service and taken treatment as inpatient. The 1st respondent went to the hospital, received the complaint and registered the FIR.

3.The learned counsel for the appellants submitted that the appellants falsely implicated in this case, they are poor agriculturists. The 1st appellant is a senior citizen and the 2nd appellant is a diabetic patient. He further submitted that the 2nd respondent earlier made similar complaint and later withdrawn the same after receiving money. The appellants were arrested and remanded to judicial custody on 06.11.2020. In the village sofar, there is no communal clash and all community people are having friendly relationship. The learned counsel further submitted that the appellants as well the 2nd respondent are residing in the same village and each of them know about the social status and there is no possibility of the appellants

abusing and picking up quarrel with the 2nd respondent. The appellants are falsely implicated with ulterior motive and they have no bad antecedents.

4.The learned Government Advocate [Crl. Side] appearing for the 1st respondent Police submitted that in this case, the investigation is still pending. The village would become tensed, if the appellants are let out on bail, there is a chances of communal clash. Further, A1 was granted bail on medical ground and the same would not apply to the appellants. The appellants taking offensive of the 2nd respondent motoring in the street is highly condemnable, which is against the fundamental rights of free movement. The appellants joined together with an intention to suppress and discriminate the low caste people. Hence, he opposed to set aside the order of the Court below.

5.On considering the rival submissions and on perusal of the materials, it is seen that the appellants and the 2nd respondent are living in the same village and each of them are aware of their social identify. The appellants now raising objection to the 2nd respondent for using the street, if true, is highly condemnable. In any event, it would be better that the appellants and the 2nd respondent coexist in the village and live harmony. With the hope that good sense would prevail and harmony would develop between them, this Court is inclined to grant bail to the appellants.

6.The appellants are ordered to be released on bail, 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 Sessions Judge, Special Court for Scheduled Caste and Scheduled Tribes (Prevention of Atrocities), Act, Perambalur, 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 appear before the respondent Police daily at 10.30 a.m., until further orders.
- 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.The Criminal Appeal is allowed and the order dated 27.11.2020, made in E.Bail.No.874 of 2020, passed by the learned Sessions Judge, Special Court for Scheduled Caste and Scheduled Tribes (Prevention of Atrocities), Act, Perambalur is, hereby, set aside. Consequently, the connected Criminal Miscellaneous Petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

- 1.The Sessions Judge, Special Court for Scheduled Caste and Scheduled Tribes (Prevention of Atrocities), Act, Perambalur.
- 2.The Sub Inspector of Police, Maruvathur Police Station, Perambalur District.
- 3.The Superintendent, Central Prison, Tiruchirapalli.
- 4.The Public Prosecutor, High Court, Madras.

+2 ccs to M/s.C.S.Associates Advocate sr41483

Cr1.A.No.495 of 2020

aa23/12/2020