IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.A.No.493 of 2020

P.Manivasagam,
S/o.Periyasamy ...Appellant/A1

-Vs-

1. State rep.by
   The Deputy Superintendent of Police,
   Tiruchengode Sub-Division,
   Tiruchengode.

2. The Sub-Inspector of Police,
   Mallasamudram Police Station,
   Namakkal District.
   (Crime No.542 of 2020)

3. Sathasivam,
   S/o.Chinnan ... Respondents

Prayer: Criminal Appeal filed under Section 14 (A) (2) of Scheduled Castes & Scheduled Tribes Prevention of Atrocities, Act, 1989, to set aside the order dated 24.11.2020 made in C.M.P.No.135 of 2020 on the file of the sessions Judge, Special Court for SC/ST (POA) Act, Namakkal and to enlarge the appellant on bail on Crime No.542 of 2020 pending investigation on the file of the respondent Police.

For Appellant : Mr.C.S.Saravanan
For R1 & R2 : Mr.C.Raghavan
Government Advocate (Crl.Side)
For R3 : No Appearance

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J U D G M E N T

The appellant/accused in Crime No.542 of 2020 for the offence under Sections 294(b), 506(i) IPC r/w 3(1)(r), 3(1)(s) SC/ST (PoA) Amendment Act 2015 dated 16.12.2019, has moved a bail application before the learned Special Judge, Special Court for SC/ST (PoA) Act, Namakkal, in C.M.P.No.135 of 2020 and the same was dismissed on 24.11.2020. Against which the present appeal.

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2.The case of the prosecution is that the third respondent/defacto complainant is belonging to Scheduled Caste Community, on 15.11.2020 at about 4 p.m., when the third respondent and his supporters questioned the appellant about the construction of compound wall near the road connecting between Arasamaram to Magudanchavadi, the appellant and his daughter in law abused the third respondent and his supporters with filthy language and criminal intimidation by calling the defacto complainant by his caste name. Hence a complaint.

3.The contention of the learned counsel for the appellant is that the appellant has been falsely implicated in this case. There was no such occurrence as alleged in the complaint. The complaint has been lodged only to implicate the appellant as an accused in a criminal case as to sort out the dispute in civil case. The appellant already succeeded a civil case in O.S.No.270 of 2015 dated 27.07.2018 before the Additional District Munsif, Tiruchengode. The third respondent and his supporters repeatedly damaged the appellant's property. This appellant lodged a complaint before the Mallasamudram Police Station in Crime No.254 of 2017 under sections 294(b), 427, 506 (i) IPC against the third respondent supporters. He further submitted that he has not committed any offence as alleged by the third respondent. He is the sole bread winner of his family. Hence, prayed for bail.

4.The second respondent Police served notice to the third respondent on 16.12.2020 and proof of the same has been filed. Despite the same there is no representation on behalf of the third respondent.

5.The learned Government Advocate (Crl.Side) submitted that on 15.11.2020 at about 4 p.m., when the third respondent/defacto complainant and his supporters questioned the appellant about the construction of compound wall near the road connecting between Arasamaram to Magudanchavadi, the appellant and his daughter in law abused the third respondent and his supporters with filthy language and criminal intimidation by calling the defacto complainant by his caste name. Therefore, a third respondent lodged a complaint against the appellant and based on the complaint of the third respondent the above case came to be registered. There is a civil dispute between the appellant and the respondent.

6.Considering the rival submissions and taking into consideration the period of incarceration undergone by the appellant, this Court is inclined to grant bail for the appellant, subject to the following conditions:

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(a)the appellant 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 SC/ST (PoA) Act, Namakkal 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 appellant shall appear before the Trial Court on all hearing dates during trial.

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

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

(f) the appellant 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.

7. In view of the above, the order passed by the trial Court dated 24.11.2020 in C.M.P.No.135 of 2020 is set aside. The appeal is, accordingly, allowed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rst

To

1.The Sessions Judge,
Special Court for SC/ST (PoA) Act,
Namakkal.

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2.The Deputy Superintendent of Police,
Tiruchengode Sub-Division,
Tiruchengode.

3.The Sub-Inspector of Police,
Mallasamudram Police Station,
Namakkal District.

4.The Superintendent,
Central Prison, Salem.

5.The Public Prosecutor,
Madras High Court.

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RMP(20/01/2021)

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