

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.12.2020

CORAM :

THE HON'BLE Mr. JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P.Nos.20611 & 20650 of 2020

Chinnakannan @ Chinnakannu

... Petitioner in
Crl.O.P.No.20611/2020

Mangammal

... Petitioner in
Crl.O.P.No.20650/2020

Vs.

State by:-

The Inspector of Police,
Pochampalli Police Station,
Krishnagiri District.
(Crime No.489 of 2020)

... Respondent
in both Crl.O.Ps

COMMON PRAYER: Criminal Original Petitions are filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.489 of 2020 on the file of the respondent police.

For Petitioners in both Crl.O.Ps: Mr.P.M.Duraiswamy

For Respondent in both Crl.O.Ps : Mr.T.Shunmugarajeswaran
Government Advocate (Crl.Side)

COMMON ORDER

(These cases have been heard through video conference)

The petitioner in Crl.O.P.No.20611/2020, who was arrested and remanded to judicial custody on 02.12.2020 and the petitioner in Crl.O.P.No.20650/2020, who was arrested and remanded to judicial custody on 30.11.2020 for the offences punishable under Sections 294 (b), 323, 324 and 506(i) of IPC and subsequently, the FIR was altered into Section -294(b) and 302 of IPC, in Crime No.489 of 2020 on the file of the respondent police, seek bail.

2.The case of the prosecution as per the *de facto* complainant viz. Murugesan is that the petitioner and the defacto complainant are neighbouring land owners, due to pathway dispute, the

defacto complainant's family and the petitioner's family developed enmity and they had been quarrelling with each other for some time. While so, on 25.07.2020, at about 9.30 p.m. there was a quarrel between two families and that the petitioner in CrI.O.P.No.20650 of 2020 / Mangammal and the deceased stated to have attack each other, on seeing the occurrence, the main accused A1, who is the son of the said Mangammal, kicked the victim on her stomach and attacked her with wooden material, due to which, she sustained injuries. The victim was taken to the hospital and thereafter referred to various Government hospitals for further treatment, and the deceased succumbed to injuries on 21.08.2020. Hence the complaint.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. He would submit that the petitioners are respectively husband and wife and the petitioner in CrI.O.P.No.20611 of 2020 is a senior citizen and that on the false complaint given by the defacto complainant, the entire family members have been implicated and arrested in this case. He would further submit that the victim is the person, who had instigated the occurrence. He would further submit that the alleged occurrence is stated to have taken place on 25.07.2020 and the victim breathed her last on 21.08.2020, after about a month. He would further submit that the victim was not given proper treatment, due to which, she succumbed to death and the petitioners cannot be held responsible for the death. Even as per the F.I.R., the defacto complainant is not an eye witness to the occurrence and the complaint has been lodged based on the hear say evidence. He would further submit that though the victim is stated to have alive for about a month, no statement had been recorded from the victim and the accused are in custody for the past one month. He would further submit that the main accused in this case has been granted bail in CrI.O.P.No.15570 of 2020 vide order dated 01.10.2020.

4. The learned Government Advocate (CrI.Side) appearing for the respondent police would vehemently oppose stating that the petitioners and the defacto complainant are neighbours, due to previous enmity with regard to the pathway dispute, the petitioners along with their family members trespassed into the house of the victim around midnight and assaulted the victim, due to which she sustained injuries and she was taken to various hospitals and she succumbed to injuries on 21.08.2020. He would further submit that originally a case was registered for the offences u/s.294(b), 323, 324 and 506(i) of IPC and subsequently, after the death of the victim, the FIR was altered into Section 294(b) and 302 of IPC.

5. Heard the learned counsel appearing for the petitioners as well as the learned Government Advocate (CrI.Side) appearing for the respondent and perused the materials available on record.,

including the F.I.R. and alteration report.

6. Taking into consideration of the facts and circumstance of the case and the submissions made by the learned counsels and also taking into consideration the period of incarceration suffered by the petitioners, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) Accordingly, the petitioners are ordered to be released on bail on condition to execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) each with two sureties each for a like sum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Pochampalli, Krishnagiri District, and on further conditions that:

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) the petitioners, on their release from prison, shall stay at Erode and report before the Erode Town Police Station everyday at 10.30 a.m., until further orders. The petitioners shall not enter into the jurisdictional limits of the respondent police;

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

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

(f) the petitioners 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 absconds, a fresh FIR can be registered under Section 229A IPC.

7. With the above directions, these Criminal Original Petitions are ordered.

-sd/-

23/12/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
POCHAMPALLI, KRISHNAGIRI DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
POCHAMPALLI POLICE STATION,
KRISHNAGIRI DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

6 THE OFFICER INCHARGE,
SUB JAIL, HOSUR.

7 THE OFFICER INCHARGE,
ERODE TOWN POLICE STATION,
ERODE.

CC to M/S P.M.DURAI SWAMY Advocate on payment of necessary charges

CRL OP.20611 & 20650/2020

Date : 23/12/2020

MN-28/12/2020