



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATE : 16.07.2020
CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. A. (MD)No.207 of 2020

Potharaja @ Kodangi

.. Appellant / Sole Accused

Vs.

The State represented by,
The Inspector of Police,
All Women Police Station,
Usilampatti,
Madurai District.
(Crime No.7 of 2020)

.. Respondent / Complainant

Prayer : This criminal appeal is filed under Section 14A(2) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amended Act, 2016, to call for the entire records pertaining to the order passed by the learned III Additional District Judge (PCR Act Cases), Madurai District in Cr.M.P.No.395 of 2020 vide its order dated 09.06.2020 and set aside the same and consequently enlarge the appellant on bail in Crime No.7 of 2020 on the file of the Inspector of Police, All Women Police Station, Usilampatti, Madurai District.

For Appellant

: Mr.R.Anand

For Respondent

: Mrs.Anandha Devi,

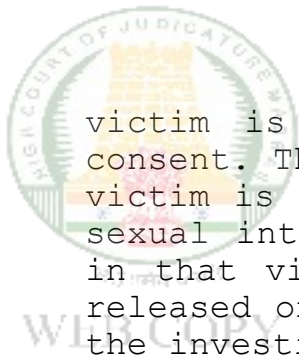
Government Advocate

ORDER

This appeal has been filed to set aside the order in Cr.M.P.No.395 of 2020 dated 09.06.2020, on the file of the learned III Additional District Judge (PCR Act Cases), Madurai District and enlarge the appellant on bail in Crime No.7 of 2015.

2.On the side of the appellant,it is stated that even in the complaint, it is stated that the defacto complainant was having sexual contact with the appellant several times, which amounts to consent. The statements of the victim cannot be relied upon if the victim is a mentally retarded person. Further, it is alleged that the victim identified the accused and has narrated the incident to her mother. Then she cannot claim insanity. The petitioner further stated that the medical test was already over and all the witnesses were already examined. Further, major part of the investigation was over. The petitioner is in custody for the past 50 days and prayed for the releasing of the petitioner on bail.

3.On the side of the prosecution, it is stated that the



victim is 50% mentally ill person and there is no question of consent. The victim is 21 years and the accused is 56 years old. The victim is pregnant. The appellant had threatened the victim and had sexual intercourse with her and the appellant is a powerful person in that village. It is further stated that if the appellant is released on bail, he will tamper the witness and cause hindrance to the investigation.

4. Already the petitioner is in custody for the past 50 days. Major part of the investigation might be over by now. Considering the facts and circumstances of the case and also the considering the period of incarceration, this Court is inclined to allow the appeal and grant bail to the appellant.

5. In such circumstances, the Criminal Appeal is allowed and the Appellant is ordered to be released on bail, subject to the following conditions:

- (i) the appellant shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned III Additional District Judge (PCR Act Cases), Madurai.
- (ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned III Additional District Judge (PCR Act Cases), Madurai, may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity.
- (iii) On release, the appellant shall reside in Dindigul and shall appear before the all Women Police Station, Dindigul Town daily at 10:30 a.m, until further orders.
- (iv) the appellant shall not tamper with evidence or witness either during investigation or trial.
- (v) the appellant shall cooperate with the investigation.
- (vi) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court 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 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]**.

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Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Mrn

Note : In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The III Additional District Judge,
Madurai.(PCR ACT CASES)
- 2.The Inspector of Police,
All Women Police Station,
Usilampatti,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

- 1)The Inspector of Police,
All Women Police Station,
Dindigul Town.
- 2)The Officer in charge,
District Prison,
Dindigul.

Crl. A. (MD)No.207 of 2020

16.07.2020

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