



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.07.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **R.PONGIAPPAN**

Crl.O.P.[MD]No.7457 of 2020

Somasundaram

... Petitioner/Accused No.2

Vs.

1.The Deputy Superintendent of Police,
Thoothukudi Rural,
Thoothukudi District.

... 1st Respondent/
Investigating Officer

2.The Inspector of Police,
Thattaparai Police Station,
Thoothukudi District.
(Crime No.163 of 2020)

... 2nd Respondent/
Complainant

3.Esakkimuthu

... 3rd Respondent/
defacto complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, praying to direct the learned II Additional Sessions Judge, (PCR Cases), Tirunelveli, to consider the petitioner's bail application on the day of surrender and dispose on the same date on merits and in accordance with law in Crime No.163 of 2020 on the file of the second respondent.

For Petitioner : Mr.S.Ramasamy
For R-1 and R-2 : Mr.S.Chandrasekar
Additional Public Prosecutor

O R D E R

This criminal original petition has been filed seeking a direction to direct the learned II Additional Sessions Judge, (PCR Cases), Tirunelveli, to consider the petitioner's bail application on the day of surrender and dispose on the same date on merits and in accordance with law.

2.The learned counsel for the petitioner would submit that based on the complaint given by one Esakkimuthu, the second respondent police registered a case against the petitioner in Crime No.163 of 2020, under Sections 288, 304 of I.P.C., and Section 8 and 9 of Prohibition of Employment as manual Scavenger & Their Rehabilitation Act, 2013 and Section 3(1)(j) of SC/ST (Prevention of Atrocities) Act, 1989. He would further submit that in the alleged occurrence, the petitioner was arrayed as second accused.



In fact, the first accused alone engaging the deceased for cleaning the waste in the septic tank and during the time of cleaning the same, accidentally the occurrence was happened. Therefore, registering the case against the petitioner is unlawful. However, the petitioner is ready to surrender before the Jurisdictional Magistrate and thereby it is necessary to direct the II Additional Sessions Judge, (PCR Cases), Tirunelveli, to consider the petitioner's bail application on the day of surrender.

3.The learned Additional Public Prosecutor appearing for the respondents 1 and 2 would submit that usually since there was no provision for getting anticipator bail for the offence registered under the SC/ST (Prevention of Atrocities) Act, 1989, this Court by exercising its power under Section 482 Cr.P.C. directs the Subordinate Officer to consider the bail application on the same day on which the accused was surrendered before the trial Court. He would further submit that in this case, the gravity of the offence committed by the petitioner is so serious and as of now investigation has not been completed. In the said circumstances, if the prayer sought by the petitioner is allowed in his favour, it is very difficult for the Investigating Officer to complete the investigation.

4.Upon considering the rival submissions made by either side, it is true that apart from 3(1)(j) of SC/ST (Prevention of Atrocities) Act, 1989, the petitioner was charged for the offence under Sections 288, 304 of I.P.C., and Sections 8 and 9 of Prohibition of Employment as manual Scavenger & Their Rehabilitation Act, 2013. Further in the alleged occurrence, two persons were died. In the said circumstances, the involvement of the petitioner has to be thoroughly investigated and then only the Investigation Officer came to the correct conclusion. Therefore, if any direction is issued in favour of the petitioner, it amounts to interfering with the investigation conducted by the first respondent. Hence, this Court is not inclined to allow this petition.

5.With the above observations, this Criminal Original Petition is dismissed.

Sd/-

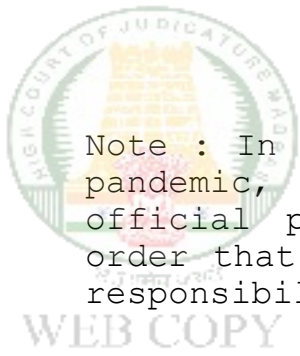
Assistant Registrar (CSII)

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Sub Assistant Registrar(CS)

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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 Deputy Superintendent of Police,
Thoothukudi Rural,
Thoothukudi District.
- 2.The Inspector of Police,
Thattaparai Police Station,
Thoothukudi District.
(Crime No.163 of 2020)
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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KB(27.07.2020) 3P 4C