



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 08.09.2020

CORAM:

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl.A.(MD)No.271 of 2020

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1.Karthick @ Karthick Rajaram

2.E.Prabhakaran

3.R.Prabhakaran

... Appellants / Accused Nos.2,4 & 8

Vs.

1.The Assistant Commissioner of Police,
Thirunelveli Town,
Thirunelveli.

2.The Inspector of Police,
Pettai Police Station,
Thirunelveli City,
(In Crime No.796 of 2020)

... Respondents 1&2/ Complainant

3.Esaiselvam

... 3rd Respondent/Defacto complainant

PRAYER: Criminal Appeal is filed under Section 14-A (2) of the Scheduled Caste/Scheduled Tribes Act, 1989, Amendment Act, 2015, to call for the records pertaining to the order passed by the learned II Additional District and Sessions Judge, Tirunelveli in Crl.M.P.No.1029 of 2020, dated 03.08.2020 and enlarge the appellants on bail in connection with the Crime No.796 of 2020 pending investigation on the file of the first respondent police.

For Appellants : Mr.R.Aravind Raj

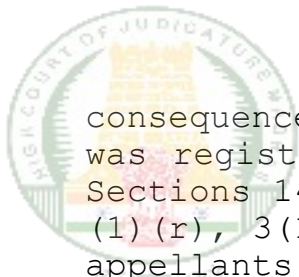
For R- 1 and R-2 : Mr.A.P.G.Ohm Chairma Pabhu
Government Advocate

JUDGMENT

Heard the learned counsel appearing for the appellants and the learned Government Advocate appearing for the respondents 1 and 2. Though notice was served, none appears for the defacto complainant / third respondent.

2. This appeal has been filed against the order, dated 03.08.2020, made in Cr.M.P.No.1029 of 2020 on the file of the learned II Additional District and Sessions Judge, Tirunelveli and to enlarge the appellants on bail.

3. The allegation levelled against the appellants is that due to previous motive, on 19.07.2020, at about 2.30 p.m., the appellants and other accused attacked the defacto complainant and two others with Aruval and wooden log and threatened them with dire



consequences. On the complaint of the defacto complainant, a case was registered against the accused in Crime No. 796 of 2020, under Sections 147, 148, 294(b), 307, 324, 506(ii) of I.P.C. and Section 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST (POA) Amendment Act, 2015. The appellants filed a bail petition before the learned II Additional District and Sessions Judge, Tirunelveli, in Crl.M.P.No.1029 of 2020. That petition was dismissed by the trial Court. Against which, the appellants preferred this Criminal Appeal.

4. On the side of the appellants, it is stated that the appellants are in judicial custody from 20.07.2020. It is further stated that the appellants are also injured and a counter case was also filed against the defacto complainant and others, in Crime No.797 of 2020, under Sections 147, 148, 294(b), 324, 506(ii) I.P.C. and Section 4 of Tamil Nadu Prohibition of Women from Harassment Act, 2012 and the defacto complainant and all the injured persons were already discharged from the hospital. The appellants are in judicial custody for the past 49 days and prayed the appeal to be allowed.

5. On the side of the prosecution, it is stated that the appellants and others abused the defacto complainant and others and insulted them using their caste name and also attacked them brutally. It is further stated that one Siva lost four of his teeth and his mother / Muthulakshmi also lost two of her teeth due to the brutal attack by the appellants. If the appellants are released on bail, they may tamper the witnesses and they may harm the defacto complainant physically and there will be a life threat to the defacto complainant and his family and hence prayed for the dismissal of the appeal.

6. It is seen that the appellants are arrayed as A2, A4 and A8 in the case. There is a counter case pending. The appellants are in custody for the past 49 days and the injured persons are already discharged from the hospital.

7. In view of the above facts and circumstances of case and considering the period of incarceration and also considering the nature of offence, this Criminal Appeal is allowed and the order passed by the learned II Additional District and Sessions Judge, Tirunelveli, made in Cr.M.P.No.1029 of 2020, dated 03.08.2020, is set aside and the appellants are ordered to be enlarged on bail on the following conditions:

(i) The appellants shall execute a 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 II Additional District and Sessions Judge, Tirunelveli.



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(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned II Additional District and Sessions Judge, Tirunelveli, may obtain a copy of their any valid identity proof to ensure their identity.

(iii) The appellants should not interfere in the investigation;

(iv) The appellants should co-operate with the respondent for investigation;

(v) The appellants should reside in Virudhunagar District and not to enter Tirunelveli District.

(vi) On release, the appellants shall appear before the **Virudhunagar Town Police Station** daily twice ie. 10.00 a.m and 05.00 p.m ;

(vii) On breach of any of the aforesaid conditions, the learned 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]**.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

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 II Additional District and Sessions Judge,
Tirunelveli.



2.The Assistant Commissioner of Police,
Thirunelveli Town,
Thirunelveli.

3.The Inspector of Police,
Pettai Police Station,
Thirunelveli City.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

1. The Inspector of Police,
Virudhunagar Town Police Station,
Virudhunagar

2. The Superintendent, Central Prison,
Palayamkottai.

Crl.A. (MD) No.271 of 2020
08.09.2020

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