

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2021

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.A.No.105 of 2021

D.Seetharaman ... Appellant/Accused No.1  
Versus

1.State

Represented by  
Deputy Superintendent of Police,  
Gingee Sub Division,  
Gingee, Villupuram District.  
Pin : 604 202.

2.State

Represented by  
Inspector of Police,  
Kedar Police Station,  
Villupuram District.

3.Arutselvan ... Respondents/Complainant/Defacto Complainant

PRAYER: Criminal Appeal filed under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989, to set aside the order dated 26.02.2021 passed in Crl.M.P.no.471 of 2021 by the learned Sessions Judge, Special Court for Exclusive of Trial of Cases Registered under the SC/ST (POA) Amendment, 2015, Villupuram and enlarge the appellant on bail in Crime No.1390 of 2020, pending investigation on the file of the respondent Police.

For Appellant : Mr.B.Udaya Kumar

For R1 & R2 : Mr.T.P.Savitha,  
Government Advocate [Crl. Side]

For R3 : No Appearance

JUDGMENT

The respondent Police registered a case against the appellant in Crime No.1390 of 2020, for offence under Sections 447 of IPC r/w 3(i)(g) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), Amendment Act, 1989. During the pendency of investigation, the appellant moved the

Sessions Judge, Special Court for Exclusive Trial of Cases Registered Under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989, Villupuram for granting bail in CrI.M.P.No.471 of 2021 in Crime No.1390 of 2020. The learned Sessions Judge, by order, dated 26.02.2021, dismissed the bail application filed by the appellant. Challenging the said order, the appellant has filed the present appeal before this Court.

2.The learned counsel for the appellant would submit that a false case has been foisted against the appellant when the civil suit is pending between the appellant and the defacto complainant/3<sup>rd</sup> respondent herein. The 3<sup>rd</sup> respondent by giving a criminal colour to the civil dispute had given a false complaint against the appellant. The learned Sessions Judge failed to consider the same and dismissed the bail application filed by the appellant. Therefore, he has filed the present appeal for granting bail. The learned counsel for the appellant would further submit that there are two accused in this case, in which the appellant is the 1<sup>st</sup> accused. Earlier, he has filed a petition under Section 482 Cr.P.C., before this Court in CrI.O.P.No.2655 of 2020 and this Court, by order, dated 15.02.2021, directed him to surrender before the trial Court. As per the direction of this Court, the appellant surrendered before the trial Court and filed the bail application and the trial Court, by order, dated 26.02.2021 in CrI.M.P.No.471 of 2021 dismissed the same. It is further submitted that between the parties, a civil suit in O.S.No.200 of 2020 is pending before the learned District Munsif Cum Judicial Magistrate, Vikravandi, regarding granting panchama land and the Writ Petition in W.P.No.774 of 2018 is also pending. In order to get over from the civil suit, he has foisted the false case against the appellant and therefore, the appellant may be enlarged on bail.

3.The 3<sup>rd</sup> respondent appeared in person and vehemently contended that the disputed property is a panchama land which cannot be disbursed to other than the people belong to Scheduled Castes and Scheduled Tribes. The appellant created false document and tried to dispossess the 3<sup>rd</sup> respondent from the panchama land which is against law. Despite pendency of the civil suit and the writ petition, the appellant is trying to forcefully dispossess the 3<sup>rd</sup> respondent fully knowing that he belongs to the Scheduled Castes and Scheduled Tribes and also humiliated him. Therefore, he has given a complaint to the respondent Police which was registered in Crime No.1390 of 2020, for offence under Section 447 of IPC r/w 3(i)(g) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), Amendment Act, 1989. During the pendency of investigation, the appellant has filed a petition under Section

482 Cr.P.C., before this Court in Crl.O.P.No.2655 of 2021 and this Court, by order, dated 26.02.2021 directed him to surrender before the trial Court and that is why, he surrendered, otherwise he would not be secured. If he released on bail, he would cause trouble to the 3<sup>rd</sup> respondent and also tamper the witness and hamper the investigation. Therefore, the 3<sup>rd</sup> respondent objected for granting of bail.

4.The learned Government Advocate (Crl. Side) appearing for the respondents 1 and 2 would submit that investigation is pending and due to direction of this Court, the appellant has surrendered and there is possibility of the appellant to protract the investigation and hence, the appeal is liable to be dismissed.

5.Heard the learned counsel for the appellant and the learned Government Advocate (Crl. Side) and also the 3<sup>rd</sup> respondent/defacto complainant, who appeared in person and perused the records.

6.The case in Crime No.1390 of 2020, for offence under Section 447 of IPC r/w 3(i)(g) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), Amendment Act, 1989 has been registered against the two accused, in which the appellant has been shown as A1. Now the investigation is not completed and the same is pending. The 3<sup>rd</sup> respondent objected for releasing the appellant on bail for the reason that he is trying to grab the panchama land and also causing trouble to the 3<sup>rd</sup> respondent.

7.The learned counsel for the appellant submits that the appellant has given undertaking affidavit that he will not give any inconvenience or trouble to the 3<sup>rd</sup> respondent herein.

8.Considering the facts and circumstances of the case and since the civil suit and the Writ Petition and also the investigation in this case are pending, this Court is inclined to enlarge the appellant 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) 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 Exclusive Trial of Cases Registered Under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989, Villupuram. failing which, the Criminal Appeal for bail shall stand dismissed and on further condition that;

(ii)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;

(iii)the appellant shall report before the 2<sup>nd</sup> respondent Police on every Monday at 10.30 a.m., until further orders.

(iv)The appellant shall not give any inconvenience or trouble knowingly or unknowingly to the 3<sup>rd</sup> respondent, failing which, the bail shall be cancelled without any further reference.

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

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

(vii)the appellant shall not tamper with evidence or witness either during investigation or trial;

(viii)on breach of any of the aforesaid conditions, the learned Judicial 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];

(ix)if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

9.In view of the above, the order, dated 26.02.2021, made in CrI.M.P.No.471 of 2021 is ~~set-aside~~ and the Criminal Appeal is, accordingly, allowed.

सत्यमेव जयते  
-s/d-

Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

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To

1.The Sessions Judge, Special Court for Exclusive Trial of Cases Registered Under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989, Villupuram.

2.The Deputy Superintendent of Police,  
Gingee Sub Division,  
Gingee, Villupuram District.

3.The Inspector of Police,  
Kedar Police Station,  
Villupuram District.

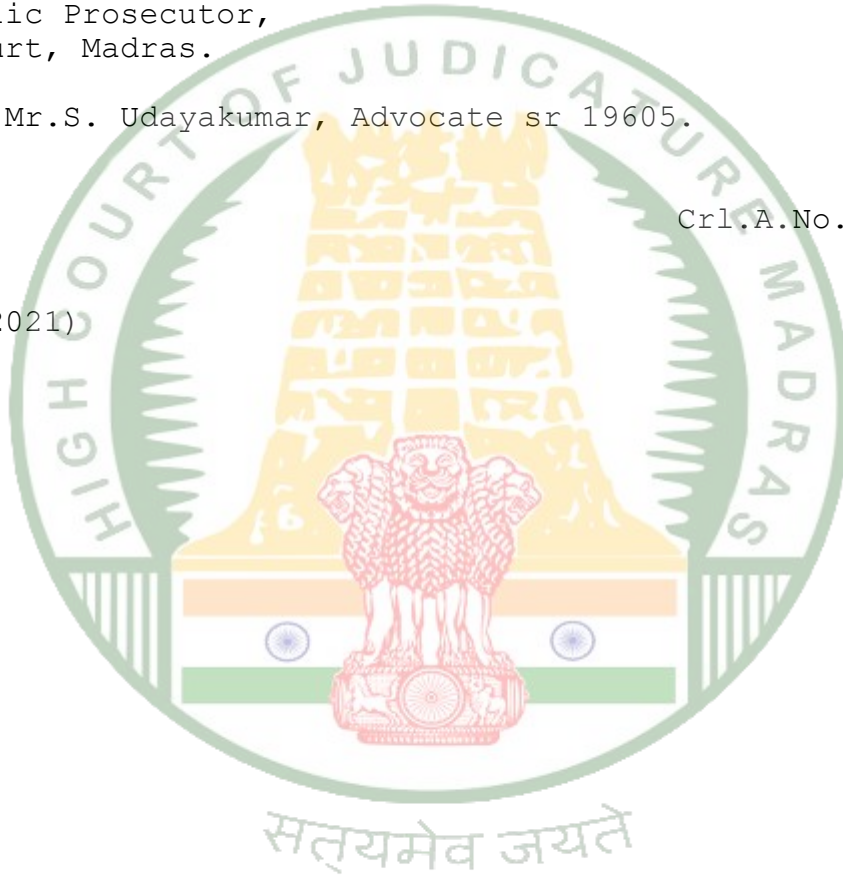
4.The Superintendent,  
Prison, Vedampattu, Villupuram.

5.The Public Prosecutor,  
High Court, Madras.

+2 Ccs to Mr.S. Udayakumar, Advocate sr 19605.

Crl.A.No.105 of 2021

JPII (CO)  
SP(26/03/2021)



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