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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRIMINAL APPEAL NOS.384 AND 385 OF 2021

VENKATESHRAJ

... Appellant in
Crl.A.No.384 of 2021

SOKKALINGAM

... Appellant in
Crl.A.No.385 of 2021

.Vs.

IN BOTH THE APPEALS

1. The Deputy Superintendent of Police,
Salem,
Salem District.

... 1st Respondent

2. State, Rep. by
The Inspector of Police,
Konganapuram Police Station,
Salem District.
(Crime No.274 of 2021)

... 2nd Respondent/
Complainant

3. Mayakrishnan

... 3rd Respondent/
Defacto Complainant

COMMON PRAYER:-

Criminal Appeals filed under Section 14-A (2) of SC/ST (POA) Amendment Act 2015 seeking to enlarge the appellants on bail in Crime No.274 of 2021 on the file of Inspector of Police, Konganapuram Police Station, Salem District by setting aside the bail dismissal orders in C.M.P.Nos.2496 and 2495 of 2021 dated 07.08.2021 passed by the Principal Sessions Judge, Salem.

IN BOTH THE APPEALS

For Appellants : Mr.B.Vasudevan

For Respondents 1&2 : Mr.S.Sugendran
Government Advocate (Crl.Side)



C O M M O N J U D G M E N T

(The case has been heard through video conference)

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The Criminal Appeals have been filed seeking to enlarge the appellants on bail in Crime No.274 of 2021 on the file of Inspector of Police, Konganapuram Police Station, Salem District by setting aside the bail dismissal orders in CMP Nos.2496 and 2495 of 2021 dated 07.08.2021 passed by the learned Sessions Judge, Salem.

2. The respondent police registered a case against the appellants and others in Crime No.274 of 2012 for the offences punishable under Sections 447, 427, 5069ii) IPC and Section 3(1)(g), 3(1)(r), 3(1)(s) and 3(2)(va) of SC/ST (Prevention of Atrocities) Amendment Act, 2015. The appellant in CrI.A.No.384 of 2021 has been arrayed as A3 and the Appellant in CrI.A.No.385 of 2021 has been arrayed as A1. During the pendency of the investigation, the appellants were arrested on 27.07.2021 following which, they filed petitions under Section 439 Cr.P.C. in CMP Nos.2496 and 2495 of 2021 seeking for bail before the Principal Sessions Judge, Salem and the learned Sessions Judge dismissed the petitions by way of common order dated 07.08.2021. Challenging the said common order, both the appellants have filed the present appeals before this Court.

3. Mr.B.Vasudevan, learned Counsel for appellants would submit that the appellants have not committed any offence as alleged by the prosecution. In fact the appellant in CrI.A.No.384 of 2021 had filed a civil suit in O.S.No.221 of 2013 against his family members for partition before the III Additional District Judge, Salem and the same was decreed on 07.09.2019 and during the pendency of the same, one Saravanan had filed an implead petition and the same was dismissed. Since, the said Saravanan could not succeed in the said petition by impleading himself as one of the party in the said suit, he set up the defacto complainant and filed a false complaint against the appellants and no such occurrence had happened as alleged by the prosecution. He would further submit that the appellants are the original owners of the alleged property and neither the said Saravanan, nor the defacto complainant have right over the property whereas, the learned Sessions Judge has failed to consider the same and dismissed the petitions filed by the appellants which warrants interference of this Court.

4. Mr.S.Sugendran, Government Advocate (CrI. Side) would submit that the said Saravanan had already filed a separate complaint against the appellants and there is no necessity for the defacto complainant to lodge a false complaint against the



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appellants. The defacto complainant had purchased the said property from the said Saravanan and he was in possession of the property. While so, the appellants and other accused trespassed into the property which was in the possession of the defacto complainant and damaged the house and threatened him with dire consequences and also uttered his caste name. Therefore, the defacto complainant lodged a complaint before the respondent police and the same was taken in Crime No.274 of 2012 for the offences punishable under Sections 447, 427, 506(ii) IPC and Section 3(1)(g), 3(1)(r), 3(1)(s) and 3(2)(va) of SC/ST (Prevention of Atrocities) Amendment Act, 2015. He would further submit that there is a specific overt-act against the appellants and the Sessions Judge has rightly dismissed the petitions filed by the appellants and there is no merit in the appeal and the same is liable to be dismissed.

5. Heard the learned Counsel for the appellants and the learned Government Advocate (Crl. Side) appearing for the respondent police and perused the materials on record.

6. A reading of F.I.R. shows that the appellants have been arrayed as A3 and A1 in this case. Considering the gravity and nature of offence and the fact that there is a specific overt-act against the appellants, this Court is not inclined to grant bail to the appellants. Accordingly, these Criminal Appeals are dismissed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Sessions Judge,
Salem.
2. The III Additional District Judge,
Salem.
3. The Judicial Magistrate No.1,
Sangagiri,
Salem District.
4. The Deputy Superintendent of Police,
Salem,
Salem District.



- +2ccs to Mr.B.Vasudevan, Advocate, S.R.Nos.42169 & 42170

NR (CO)
PBS/17/09/2021