



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2021

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.A.No. 427 of 2021

M.Devi Rudra

...Appellant

Vs.

1.The State Represented by
The Inspector of Police,
W-29, All Woman Police Station,
Avadi, Chennai- 600 054.
(Cr.No. 10/2020)

...1st Respondent

2.Praveen Kumar

3.Devaki

...2nd & 3rd Respondents

Prayer : Criminal Appeal is filed under Section 14A (2) of Prevention of Atrocities of SC & ST Act, 1989, praying to cancel the bail granted to the 2nd and 3rd accused vide order in Crl.MP.No. 3687/2021, on the file of the Principal District and Sessions Judge, Thiruvallur, dated 27.08.2021.

For Petitioner : Mr.R.Singaravelan, Senior counsel
for Mr.M.Muruganantham

For Respondent-1 : S.Sugendran
Government Advocate (Criminal Side)

For Respondents 2&3 : Mr.K.Shanmugam

ORDER

(The case has been heard through video conference)

The Criminal Appeal has been filed seeking to cancel the bail granted to the 2nd and 3rd respondents /2nd and 3rd accused vide order in Crl.MP.No. 3687/2021, on the file of the Principal District Sessions Judge, Thiruvallur, dated 27.08.2021.

2. The learned Senior counsel for the defacto complainant/petitioner herein would submit that the respondents 2 and 3 while moving the bail application before trial Court, they have not given notice to the petitioner/defacto complainant well in advance and thereby, they could not make their objections before the trial Court. He would submit that the earlier bail



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application came up on 17.08.2021 before designated Session Judge and the learned Session Judge dismissed same after considering both the parties and also after giving sufficient opportunity to the defacto complainant/ petitioner. After dismissal of the earlier bail order, the respondents 2 and 3 subsequently filed another application seeking for bail in which, the learned designated Sessions Judge granted the bail by order dated 27.08.2021. The learned Senior counsel would further submit that the notice was not served well in advance to the defacto complainant/petitioner and it was only served at about 10.30 p.m. on 25.08.2021 and due to the pandemic situation, they could not make their objections. Whereas, the learned Sessions Judge without considering the same, passed the order and therefore, the present revision has been filed before this Court.

3.The learned Counsel for the private respondents would submit that they issued notice to the defacto complainant/petitioner and despite that, he did not appear either in person or through his Counsel even through video conference. Hence, the bail order granted to the private respondents may be made absolute.

4. The learned Government Advocate (Crl. Side) would submit that when the bail application was filed in Crl.M.P.No.3687 of 2021, the learned Session Judge ordered notice to the defacto complainant and accordingly, the same was served on the defacto complainant/petitioner and that the petitioner himself has admitted that the notice was served on him on 25.08.2021 at about 10.30 p.m. Therefore, the learned Sessions Judge considering the same, granted bail to the private respondents following which, the respondents 2 and 3 has been complying with the conditions of the Court below and even today (01.10.2021), they complied with the condition.

5. Heard the learned counsel for the defacto complainant/petitioner, the learned Counsel for the private respondents and the learned Government Advocate (Crl. Side) appearing for the respondent police and also perused the records.

6. It is seen that the earlier bail application was dismissed on 17.08.2021 and subsequently, another bail application has been filed by the private respondents following which, notice has been served on the defacto complainant/petitioner on 25.08.2021 at about 10.30 p.m. Subsequently, the learned Sessions Judge has passed the order on 27.08.2021 granting bail to the private respondents. The contention of the learned Senior counsel for the defacto complainant/petitioner is that no sufficient opportunity was given to the defacto complainant as per Section 15 (A) of SC &



ST Act and without giving sufficient opportunity to address his objection, the designated Judge passed the order which is violating the statutory provisions. Therefore, the order is liable to be set aside.

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7. In this case admittedly, the earlier bail application filed by the private respondents was dismissed on 17.08.2021 and subsequently, they have filed another application for bail in CrI.M.P.No.3687 of 2021 before the designated Sessions Court. Subsequently, the learned Sessions Judge has passed the order granting bail to the private respondents on 27.08.2021. Whereas, the notice has been served on the defacto complainant/petitioner only on 25.08.2021 at about 10.45 p.m. Since, it is a pandemic situation, the defacto complainant/petitioner should have been given sufficient opportunity to raise his objections. But the designated Session Judge has not given sufficient opportunity to the defacto complainant before deciding the bail application. Further, in this case the prime accused/A1 has been absconding and the police has not taken any effective steps to secure him. Further, the trial Court has also not properly dealt with the matter and mechanically ordered the bail application. Therefore this Court is inclined to set aside the order passed by the learned designated Sessions Judge.

8. Accordingly, the order in CrI.M.P.No.3687 of 2021 dated 27.08.2021 passed by the learned Principal District and Sessions Judge, Thiruvallur is hereby set aside and the bail granted to the respondents 2 and 3 is hereby cancelled.

9. Further, the designated Sessions Judge is directed to serve notice to the defacto complainant and after giving sufficient opportunities to both the parties and after receiving the objections from the defacto complainant, hear the matter and dispose the same in accordance with law.

10. The respondent police is directed to secure A1 within a period of 10 days from today (01.10.2021) and file a compliance report before this Court.

11. With the above observations, this Criminal Appeal Case is allowed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

ksa-2/dsn



To

1. The Principal District and Sessions Judge,
Thiruvallur,

2. The Inspector of Police,
W-29, All Woman Police Station,
Avadi, Chennai- 600 054.

3. The Public Prosecutor Officer,
High Court,
Madras.

4. The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to Mr.M.Muruganantham, Advocate, S.R.No.51046

CrI.A.No.427 of 2021

KV(CO)
RVM(01/10/2021)