



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.09.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRL.A.No.418 of 2021

Kirubasankar
S/o, Muruganatham

...Appellant

Versus

1. State rep. By
The Deputy Superintendent of Police,
Perunthurai,
Kodumudi Police Station,
Erode District.
(Crime No. 460/2020)

2. Boopathi,
S/o, Ramasamy

...Respondents

PRAYER:Criminal Appeal filed under Section 378 of the Code of Criminal Procedure, to set aside the order passed in Crl.M.P.No.1144 of 2021 dated 26.07.2021 by the Principal District and Sessions Judge, Erode in Crime No.460 of 2020 on the file of the 1st respondent police and grant bail to the appellant in Crime No.460 of 2020.

For Appellant : Mr.K.K.Ramakrishna

For R1 : Mr.M.Sugendran
Government Advocate, (Criminal Side)

JUDGMENT

This Criminal Appeal has been filed to set aside the order dated 26.07.2021 passed in Crl.M.P.No.1144 of 2021 on the file of the Principal District and Sessions Judge, Erode in Crime No.460 of 2020 on the file of the 1st respondent police and grant bail to the appellant in Crime No.460 of 2020.

2. The respondent police registered a case against the appellant and others in Crime No.460 of 2020. The appellant is



arrayed as A3. The respondent police after investigation, laid a charge sheet before the Principal District and Sessions Judge, Erode and the learned Sessions Judge dismissed the petition filed by the appellant. Therefore, the appellant has filed the present Criminal Appeal before this Court.

3. The learned counsel for the appellant would submit that he is noway connected with the case and he has been falsely implicated in this case and the victims are members of the schedule caste community and the appellant also belongs to the same caste and therefore the SC/ST Act would not attract as against the appellant and further he would submit that the eye witness has also not spoken about anything as against this appellant and none of the witnesses have spoken about the presence of the appellant. He was unnecessarily implicated in this case and even in the complaint itself, there is no mentioning about the specific allegation as against this appellant. Therefore, prays that the appellant may be enlarged on bail.

4. The learned Government Advocate (Criminal Side) appearing for the official respondent would submit that in this case, after investigation charge sheet also laid and the statements of the eye witnesses under section 164 Cr.P.C also recorded and one Lakshmi and Ponnamal were examined by the Judicial Magistrate under section 164 Cr.P.C, they have clearly spoken about the presence of the appellant and role of the appellant for the alleged occurrence.

5. The learned counsel for the appellant would further submit that there are two women named Lakshmi are found in this case but one being a witness named Lakshmi, she has not been examined by police and recorded statement under section 161(3) of Cr.P.C in this case who is a material witness and suppressing the said witness without examining her, the prosecution has not conducted a fair investigation and therefore, the evidence of the witness cannot be properly appreciated at this stage of appeal.

6. Heard the learned counsel for the appellant and the learned Government Advocate (Criminal Side) appearing for the official respondent and perused the records.

7. Admittedly the appellant is added as A3 for the offence under section 302 I.P.C and there is a specific overt act as against this appellant and the statement recorded under Section 164 Cr.P.C., of one Ponnamal has clearly stated about the specific overt act against this appellant and considering the offence which is grave in nature and since there is a specific overt act against this appellant, this Court is not inclined to



grant bail to the appellant and the appeal filed by the appellant is liable to be dismissed. Accordingly, the Criminal Appeal is dismissed.

WEB COPY

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

mfa
To

1. The Principal District and Sessions Judge,
Erode
 2. The Deputy Superintendent of Police,
Perunthurai,
Kodumudi Police Station,
Erode District.
 3. The Public Prosecutor,
High Court,
Madras.
 4. The Superintendent
Central Prison, Coimbatore
 5. The Section Officer
Criminal Section
High Court, Madras 104.
- +1 CC to Mr.K.K.Ramakrishnan, Advocate sr 46437.

CRL.A.No.418 of 2021

JP II (CO)
SP(01/11/2021)