



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2021

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Criminal Appeal No.569 of 2021

1. Pushparaj
2. Pichai Perumal
3. Kulanthaiyesu
4. Veeramani @ Uliran ... Appellants

..Vs..

1. The Deputy Superintendent of Police,
Denkanikottai Sub-Division,
Krishnagiri,
Krishnagiri District.
2. The Inspector of Police,
Anchetty Police Station,
Krishnagiri District.
(Crime No. 206 of 2021)
3. Rajkumar ... Respondents

PRAYER: Criminal Appeal filed under Section 14A of Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Amendment Act 2015, to set aside the order dated 23.10.2021 made in CrI.M.P.No.1995 of 2021 on the file of the Principal Sessions Judge (for SC/ST Act), Krishnagiri and to enlarge the appellants on bail in Crime No.206 of 2021 on the file of the respondent police.

For Appellants : Mr.R.Balaguruswamy
For Respondent : Mr.S.Sugendran
Government Advocate (Crl. Side)
R3 : No Appearance

O R D E R

This Criminal appeal has been filed against the dismissal of the bail application.

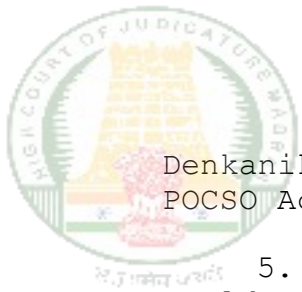
2.The brief facts of the prosecution as per the defacto



complainant Rajkumar is that some persons had caused damages to his crops and also grabbed his land for construction of a toilet. He had made a complaint to the BDO and that when he had gone to the playground on 03.09.2021, the accused along with the other persons had surrounded him and by calling his caste name, had assaulted him repeatedly and also demanded Rs.10 lakhs from him and also threatened him that he would be fixed in a POCSO case. When it was known to his parents, they rushed to the scene of occurrence and that they were also assaulted by the accused. Based on the complaint given by Rajkumar, a case in Crime No.206 of 2020 was registered by the respondent for the offences punishable under Section 294(b), 323, 324 and 506(ii) of I.P.C. Read with 3(1) (r) , 3(1)(s) and 3(2)(vs) of SC/ST (Prevention of Atrocities) Act, 1989 on 07.10.2021. The appellants were arrested on the same day. Thereafter, the appellants filed Crl.M.P.No.1995 of 2021 on the file of Principal Sessions Judge (for SC/ST Act), Krishnagiri and the Court had dismissed the same by order dated 23.10.2021 against which the present appeal has been filed.

3.Learned counsel for the appellants would submit that the appellants are innocent and they have been falsely implicated in this case. He would further submit that the defacto complainant Rajkumar had kidnapped a minor girl by name XXX, daughter of Sanjeevi and a case was registered in Crime No.18 of 2021 by All Women Police station, Denkanikottai for the offences under sections 5(l), 5(n) and 5(j)(ii) and 6 of POCSO Act. The appellants who are known to the mother of the victim have supported her and only on their insistence, the case was registered by All Women Police Station. The defacto complainant in order to take vengeance against the appellants, had given a false complaint as if the appellants abused him, assaulted him by calling his caste name and threatened to falsely implicate him under POCSO Act. The complaint had been given only on preemption. He would further submit that the respondent registered a case in crime No. 206 of 2021 and without conducting proper enquiry had arrested the appellants on the same day. He would further submit that the appellants are languishing in jail from 07.10.2021. The appellants are prepared to abide by any stringent condition imposed by this Court and he would seek for bail.

4.Mr.S.S.Sugendran, learned Government Advocate appearing for the respondents 1 and 2 would submit that the appellants have abused the defacto complainant by calling his caste name and assaulted him and when it was questioned by the parents of the defacto complainant, the accused have also assaulted them. He would further submit that the investigation is pending. However, he would submit that the defacto complainant has been arrested in a case registered by All Women Police Station,



Denkanikottai in Crime No.18 of 2021 for the offences under the POCSO Act.

5. At this juncture, the learned counsel for the appellants would submit that the first appellant had moved the second application for bail before the Krishnagiri Court and bail has been granted to him and thereby he is not pressing this appeal in respect of the first appellant. He has also made an endorsement to that effect. Accordingly, this appeal is dismissed as not pressed against the first appellant.

6. Heard the learned counsels and perused the materials on record.

7. Though notice has been served on the third respondent and his name printed in the cause list, there is no representation for the third respondent.

8. Taking into consideration of the facts and the submissions made and that the case of the defacto complainant is only counter blast, the criminal appeal is allowed. The order passed in CMP No.1995 of 2021 on the file of the Principal Sessions Judge (for SC/ST Act), Krishnagiri is set aside.

9. In view of the above, this Court is inclined to grant bail to the appellants 2 and 3/accused on the following conditions:

(a) Accordingly, the appellants 2 and 4 are ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties, each for a like sum to the satisfaction of the learned Principal District and Sessions Judge, for SC&ST Act, Krishnagiri and on further conditions that:

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) the appellants on their release from prison shall report before the respondent police daily for a period of two weeks at 10.30a.m. and thereafter as and when required. The appellants shall not leave the jurisdictional limits.

(d) the appellants shall not commit any offences of similar nature;

(e) the appellants shall not abscond during trial;

(f) the appellants shall not tamper with evidence or witness during trial;



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

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

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vri/shk

To

1. Principal Sessions Judge (for SC/ST Act)
Krishnagiri.
2. The District Munsif -Cum-
Judicial Magistrate
Denkanikottai.
3. The Deputy Superintendent of Police,
Denkanikottai Sub-Division,
Krishnagiri,
Krishnagiri District.
4. The Inspector of Police,
Anchetty Police Station,
Krishnagiri District.
(Crime No. 206 of 2021)
5. The Superintendent, Central Prison, Salem.
6. The Public Prosecutor (Crl side),
High Court, Madras.
7. The Record Keeper,
High Court, Madras.

+1cc to Mr.R.Balaguruswamy Advocate, S.R.No.63575

Crl. A. No.569 of 2021

VSN-II(CO)
CT 03/12/2021