



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.12.2021

CORAM:

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

CRL.A.No.550 of 2021

Mariappan
S/o, Madhaiyan

... Appellant

Versus

1. The State represented by
The Inspector of Police,
Poolampatty Police Station,
Salem District.
(Crime No.270 of 2021)

2. Jothiswaran
S/o, Abimannan
[R2 impleaded as per order in
Crl.M.P.No.12325 of 2021 in
Crl.A.550 of 2021 dated 26.11.2021]

... Respondents

PRAYER: Criminal Appeal filed under Section 14(A)(II) of SC/ST (POA) Amended Act-2015, to set aside the order passed in Crl.M.P.No.4048 of 2021 dated 02.11.2021 on the file of the Principal Sessions Judge, Salem (Special Court for Exclusive Trial of Cases Registered under the SC/ST (POA) Act, 1989), Salem, by allowing the present Criminal Appeal.

For Appellant : Mr.T.N.Rangesh Kanna

For R1 : Mr.S.Sugendran
Government Advocate (Crl.Side)

For R2 : No appearance

JUDGMENT

This appeal has been filed against the order dated 02.11.2021 dismissing the application for bail in Crl.M.P.No.4048 of 2021 on the file of the learned Principal Sessions Judge, (Special Court for Exclusive Trial of Cases Registered under the SC/ST (POA) Act, 1989), Salem.

2. Brief facts of the prosecution case as per the defacto



complainant Jotheeshwaran is that due to previous civil dispute, on 12.09.2021 at about 10 hours, when the defacto complainant was in his agricultural land along with his mother, the accused has gone to the defacto complainant's land and abused them with filthy language and also abused them by calling their caste name and further had trespassed into the property and had damaged the crops by running the tractor over the land. When the defacto complainant and his mother had intervened, the accused had pushed the defacto complainant's mother and kicked her. Hence the complaint. Based on the complaint, case was registered by the first respondent for the offences under sections 147, 294 (b), 323 and 354 of IPC and 3(1)(r) and 3(1)(s) of SC/ST (Prevention of Atrocities Act), 1989. The appellant was arrested on 26.09.2021. The appellant had filed CrI.M.P.No.4048 of 2021 for bail before the Principal Sessions Judge, Salem and the learned Judge, by an order dated 02.11.2021, dismissed the bail application filed by the appellant, against which the present Criminal Appeal has been filed.

3. Learned counsel for the appellant would submit that the appellant is an innocent person and he has been falsely implicated as A5 in this case. He would further submit that the appellant is a friend of one Balasubramani and there exists a civil dispute between the said Balasubramani and the defacto complainant, Jotheeshwaran. The said Balasubramani has taken the appellant along with his friends to his agricultural land and at that time, four persons who are known to them, had assaulted them with hands and also kicked them and also threatened to do away with them. In the assault, A6-Karthik sustained grievous injuries and he was admitted in the Government Hospital, Edapadi and when he was taking treatment, on intimation, the respondent has registered a case against the accused persons. Based on the complaint given by the said Karthick, a case in Crime No.271 of 2021 has been registered for the offence under sections 294(b), 323 and 506(i) IPC. Only as a counter-blast, the said Jotheeshwaran had given a complaint against the petitioner and his friends, which has been registered in Crime No.270 of 2021. The appellant is in custody from 26.09.2021. In this case, investigation is over and the alleged injured witness has been discharged from the hospital. Hence, he would seek to allow the appeal and set aside the order passed by the learned Principal Sessions Judge, Salem and to grant bail to the petitioner.

4. Mr.S.Sugendran, learned Government Advocate, (Criminal Side) appearing for the first respondent would submit that it is a civil dispute between the parties and the accused have abused the defacto complainant and his mother calling them by their caste name and assaulted them with hands and legs. He would



submit that the injured has been discharged from the hospital and he would further submit that on the complaint given by the 6th accused in this case, a case in Crime No.271 of 2021 has been registered against the counter parties. He would further submit that investigation is still pending.

5. Though notice has been served on the second respondent and also his name printed in the list, there is no representation for the second respondent.

6. Heard the counsels.

7. Taking into consideration of the facts and the submissions made and that this is a counter case and also that injured persons have been discharged from the Hospital, this Court is inclined to grant bail to the appellant/accused.

(a) Accordingly, the appellant is 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 at Salem, Special Court for Exclusive Trial of Cases Registered under the SC/ST (POA) Act 1989, Salem, and on further conditions that:

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

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

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

(e) the appellant shall not abscond during trial;

(f) the appellant 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 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];

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

8. In the result, the Criminal Appeal is allowed. The order dated 02.11.2021 passed in Crl.M.P.No.4048 of 2021 on the file of the learned Principal Sessions Judge, (Special Court for Exclusive Trial of Cases Registered under the SC/ST (POA) Act, 1989), Salem is set aside.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

mfa

To

1. The Principal Sessions Judge,
Special Court for Exclusive Trial of Cases Registered under
the SC/ST
(POA) Act, 1989, Salem.
2. The District Munsif-Cum-Judicial Magistrate,
Edappady.
3. The Inspector of Police,
Poolampatty Police Station,
Salem District.
(Crime No.270 of 2021)
4. The Public Prosecutor,
High Court, Madras.
5. The Record Keeper,
Criminal Section (Records),
High Court, Madras.

Copy to:

The Superintendent,
Central Prison,
Salem.

+1cc to Mr.T.N.Rangesh Kanna, Advocate, S.R.No.63921

CRL.A.No.550 of 2021

PM(CO)
SB(06/12/2021)