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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2021

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.A.No.559 of 2021

Elavarsan

... Appellant

Vs.

1. The State Rep by its
The Inspector of Police,
Mappedu Police Station, Mappedu
Thiruvallur District.
(Crime No.469 of 2021).

2. Revathy

...Respondents

PRAYER: The Criminal Appeal is filed under Section 14 A of SC/ST Act 1989 and 1 of 2016 Amended Act, to set aside the order passed in Crl.M.P. No.4444 of 2021 dated 23.10.2021 on the file of Principal District & Sessions Judge, Special Court for Exclusive Trial of cases registered under Sc/ST prevention of Atrocities Act, Thiruvallur, Thiruvallur District and enlarge the Appellant on bail in Crime No.469 of 21 on the file of respondent police.

For Petitioner : Mr.K.G.Senthilkumar

For Respondents : Mr. S.Sugendran for R1
Government Advocate(Crl.Side)
R2-No Appearance.

J U D G M E N T

This Criminal Appeal has been filed against the dismissal of the bail application by the learned Principal District and Sessions Judge, Tiruvallur in Crl.M.P. No. 4444 of 2021 dated 23.10.2021

2. The case of the prosecution is that as per the defacto complainant Revathi, the mother of the deceased Jayashree is that her daughter had completed B.B.A and was working in TVS Supply Chain Sol Company and that she had gone to duty on 24.09.2021 at 01.00 p.m. While the defacto complainant was



expecting her daughter to come back after duty, she did not come back and she was under the impression that she would finish her night duty and come back on the next day. Even on the next day, her daughter did not come back home and her mobile was also switched off and thereafter, the defacto complainant along with her friends had searched for her daughter and that she had found her daughter hanging herself from a tree near the water channel behind her house. The defacto complainant further stated that her daughter was having love affair with one Elavarasan of Vanniyar community and that he had been withdrawing amounts from the daughter's ATM card and her daughter's mobile phone also not found and thereby she had suspected that the said Elavarasan would be the reason for her daughter's death. Based on her complaint, a case in Crime No.469 of 2021 was registered under Sections 174 of Cr.P.C. (hanging). During the course of investigation, it was found that the accused who was having a love affair with the deceased, had refused to marry her stating that she belongs to scheduled caste community due to which, the victim had committed suicide. The case was thereafter altered to one under 306 I.P.C. Read with 3(1)(r), 3(1)(s) and 3(2)(Va) of the SC/ST, Prevention of Atrocities Act, 1989 and the appellant/accused was arrested on 26.09.2021 and remanded to the judicial custody on the same day. The accused had filed CrI.M.P.No.4444 of 2021 before the learned Principal District and Sessions Judge, Tiruvallur and the learned Judge by order dated 23.10.2021, had dismissed the same, against which, the present appeal has been filed.

3. Learned counsel for the appellant would submit that the appellant and the victim hail from the same village and that they are known to each other for a long time. The appellant and the victim had love affair for more than three years. The appellant had in fact proposed to marry the victim whereas the family of the victim had refused the marriage of her daughter with the appellant stating that the appellant belongs to a different community. The victim who was depressed by the refusal of her parents had committed suicide whereas false complaint had been given as if the appellant had refused the marriage. He would further submit that except the statements of three witnesses who were stated to have told that they have overheard the conversation between the victim and the appellant and they heard that the appellant had refused to marry her, no other direct evidence is available in this case to prove the fact that the appellant refused to marry the victim on account of her belonging to the scheduled caste community. The statements recorded from the witnesses is also not believable. He would further submit that the petitioner is in custody for more than 72 days and major part of the investigation is also over and thereby seek that the appeal may be allowed and the appellant may be released on bail.



4. Per contra, Mr.S.Sugendran, learned Government Advocate (Crl.Side) appearing for the first respondent would submit that the appellant belongs to the Vanniyar community and the victim Jayashree belongs to the Scheduled Caste community. They belong to the same village. The appellant had love affair with the victim for about three years and he had also sexual intercourse with her and thereafter, he had refused to marry her on account of the victim belonging to the SC community. Further, the appellant is also using the ATM card belonging to the victim had withdrawn the amounts. The victim had spoken to the appellant over telephone requesting him to marry her whereas he had refused to marry her stating that she belongs to the different caste and that he would not be able to marry her. Since the victim was heartbroken, she had committed suicide by hanging. The conversation between the appellant and the victim was overheard by one Jeeva, Thilothaman and Lakshmanan, who were colleagues of the appellant, while they were travelling in the bus. He would further submit that the investigation is almost over.

5. Notice has been ordered for the second respondent and it has been served and her name is printed in the causelist. There is no representation for the second respondent. Heard the learned counsel for the appellant and the learned Government Advocate (crl side) appearing for the first respondent and perused the materials available on record.

6.The case of the prosecution is that the appellant and the victim were in love with each other for three years and that after having sexual intercourse, the appellant had refused to marry the victim citing her caste and she had committed suicide. Major part of the investigation is over. Taking into consideration the facts and submissions made, this Court is of the opinion that this is a case where the appeal can be allowed and the bail can be granted to the appellant.

7. In view of the above, the order dated 23.10.2021 passed in Crl.M.P. No.4444 of 2021 stands set aside and the Criminal Appeal stands allowed and 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, Special Court for Exclusive Trial of cases registered under Sc/ST prevention of Atrocities Act, Thiruvallur, Thiruvallur District 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 appellant on his release from prison shall stay at Villupuram District and appear before Villupuram Town Police station, daily at 10.30 a.m. until further orders. The appellant shall not enter into the jurisdictional limits of the respondent police station.

(d) the appellant shall not abscond during trial;

(e) the appellant shall not tamper with evidence or witness during trial;

(f) 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];

(f) 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 District & Sessions Judge,
Special Court for Exclusive Trial of cases registered under
Sc/ST prevention of Atrocities Act,
Thiruvallur.
2. The Inspector of Police,
Mappedu Police Station, Mappedu
Thiruvallur District.
3. The Public Prosecutor
High Court, Madras.
4. The Superintendent Central Prison
Puzhal.



5. The Record Keeper,
Criminal Section,
High Court, Madras.

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+1cc to Mr.K.G.Senthilkumar, Advocate, S.R.No.64673

Cr1.A.No. 559 of 2021

KSM(CO)
CT 08/12/2021