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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D. JAGADISH CHANDIRA

CRL.A.NO.580 OF 2021

1.Kailasam
2.Vignesh
3.Rathinam

...Appellants / Accused 1 to 3

Vs.

1.State rep.by
Deputy Superintendent of Police,
Mecheri Police Station,
Mettur Taluk,
Salem District.

2.State rep. By
Inspector of Police,
Mecheri Police Station,
Mettur Taluk,
Salem District.
(Crime No.595 of 2021)

3.Arulmani

...Respondents / Complainant /
Defacto Complainant

Prayer : Criminal Appeal filed under Section 14A(2) of the Scheduled Castes and the Schedule Tribes (Prevention of Atrocities) Act, 1989 to set aside the order dated 16.11.2021 passed in CMP No.4442 of 2021 on the file of the Principal Sessions Judge, Salem and enlarge the appellants on bail in Crime No.595 of 2021 pending investigation on the file of the respondent.

For Appellants : Mr.T.Saikrishnan

For respondents : Mr.S.Sugendran for R1 & R2
Government Advocate (crl.side)
No appearance for R3

O R D E R

This appeal has been filed against the order passed by the learned Principal Session Judge, Salem, dismissing the



application for bail in C.M.P.No.4442 of 2021 in Crime No.595 of 2021 on the file of the respondent police.

2.The case of the prosecution is that on 04.11.2021, the defacto complainant one Arulmani and his brother had gone to the shop of the 1st accused for purchase of footwear. During that time, defacto complainant had bargained the price of chappal and at that time, the 1st appellant had made enquiries about the native place of the defacto complainant and after coming to know about the place of the defacto complainant, the first appellant had abused the defacto complainant using his community name and assaulted him. The 2nd and 3rd appellant who were employees under the first appellant had also assaulted the defacto complainant and used abusive language against him. During that time, two other ladies, who are bystanders and 7 other persons also attacked the defacto complainant and his brother and thereby, on the complaint given by the defacto complainant, a case in Crime No. 595 of 2021 was registered for the offences under Sections 147, 148, 323, 324, 355 of IPC and Section 3(1)(r), 3(1)(s) and 3(2)(va) of SC/ST (Prevention of Atrocities) Amendment Act, 2015. The appellants/accused were arrested and remanded to the Judicial Custody on 05.11.2021. The bail application filed by the petitioners in Crl.M.P.No.4442 of 2021 was dismissed by the Principal Sessions Judge on 16.11.2021. The petitioners have preferred the present appeal.

3.Learned counsel appearing for the appellant would submit that the first appellant is running footwear shop and the second and the third appellants are employed under him. On 04.11.2021, the defacto complainant and his brother have come to the shop of the appellants and there was a wordy quarrel between them. Admittedly, these appellants and the defacto complainant are strangers and the appellants also do not know the community of the defacto complainant. In fact the defacto complainant is the person who had assaulted the first appellant and his employees and in respect of the incident, the first appellant had given a complaint and case has been registered against the defacto complainant in Crime No. 596 of 2021 for the offences under 294(b), 323 and 506(ii)IPC, and only as a counter blast, the present complaint has been given. Reading of the F.I.R would show that only in order to escape from the counter case, the present complaint against the appellants has been given. He would further submit that the appellants are suffering incarceration from 05.11.2021 for the past one month.

4.The learned counsel for the respondents 1 and 2 has also filed a counter. Learned Government Advocate (crl.side) would submit that the defacto complainant one Arulmani along with his brother had gone to the shop of the first appellant for purchase of chappal and he had bargained the price. At that time, the



first appellant along with the 2nd and 3rd appellants have abused the defacto complainant by calling his community and assaulted the defacto complainant and his brother, who had accompanied him. He would further submit that apart from the appellants, two other ladies and seven other persons have also assaulted the defacto complainant and his brother. The defacto complainant has sustained injuries in his hand and thereafter, he was taken to the Government Hospital through 108 Ambulance. He would further submit that investigation is pending and the injured have been discharged from the hospital.

5. In reply the counsel for the appellants would contend that infact the defacto complainant and his brother had behaved in an unruly manner and the bystanders seeing the atrocity of the defacto complainant and his brother have come to the rescue of the appellants.

6. Though notice has been served on the 3rd respondent and also his name printed in the list, there is no representation for the 3rd respondent.

7. Heard the counsels.

8. Taking into consideration of the facts and the submissions made and the injured has also been discharged from the hospital and the incident was occurred during the wordy quarrel, this Court is inclined to grant bail to the appellants/accused.

(a) Accordingly, the appellants 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, Special Judge for SC&ST Act cases, Salem, 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 stay at Erode Town and appear before Erode Town Police station, daily at 10.30 a.m. for a period of one week and thereafter, report before the respondent police for a period of two weeks at 10.30a.m. 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.

9. In the result, the Criminal Appeal is allowed. The order passed in CMP No.4442 of 2021 on the file of the Principal Sessions Judge, Salem is set aside.

Sd/-
Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

vri/shk

To

- 1.The Principal Sessions Judge,
Salem.
- 2.The Principal District and Sessions Judge,
Special Judge for SC & ST Act Cases,
Salem.
- 3.The Deputy Superintendent of Police,
Mecheri Police Station,
Mettur Taluk,
Salem District.
- 4.The Inspector of Police,
Mecheri Police Station,
Mettur Taluk,
Salem District.
Crime No.595 of 2021)
- 5.The Superintendent,
Central Prison,
Salem.
- 6.The Inspector of Police,
Erode Town Police Station,
Erode.



7.The Public Prosecutor,
High Court,
Madras.

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Copy To

The Record Keeper,
Criminal Section (Records),
High Court, Madras.

+1cc to Mr.T.Saikrishnan, Advocate SR.No.62382

Cr1.A.No.580 of 2021

SSI (CO)
RVM(01/12/2021)