



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :06.12.2021
CORAM:

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

CRL.A.Nos.578 & 603 of 2021

CRL.A.No.578 of 2021

1. Sudhakar
S/o Arumugam
2. Senthil
S/o, Pachaiyappan
3. Ayyappan
S/o, Kesavan
4. Thangarasu
S/o, Arumugam
5. Eagambaram
S/o, Pachaiappan

... Appellants

Versus

1. The Deputy Superintendent of Police,
Kottakuppam Sub-Division,
Aurovil,
Vanur Taluk,
Villupuram District.
2. The State Rep by its
The Inspector of Police,
Marakkanam Police Station,
Villupuram District.
3. Thamaraiselvi,
W/o, Ramdev

... Respondents

PRAYER: Criminal Appeal filed under Section 14-A of SC/ST (Prevention of Atrocities Act), 1989, to set aside the order passed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases Registered under the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Villupuram in Crl.M.P.No.1663 of 2021 dated 10.11.2021 and enlarge the appellants on bail in Crime No.208 of 2021 on the file of the respondent police.

CRL.A.No.603 of 2021



1. Ravi @ Ravi Varman,
S/o, Rajavel
2. Arumugam
S/o, Ramasamy
3. Jayakumar @ Govindasamy
S/o, Manikkam

... Appellants

1. The Deputy Superintendent of Police,
Kottakuppam Sub-Division,
Aurovil,
Vanur Taluk,
Villupuram District.
2. The State Rep by its
The Inspector of Police,
Marakkanam Police Station,
Villupuram District.
3. Thamaraiselvi,
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... Respondents

PRAYER: Criminal Appeal filed under Section 14-A of SC/ST (Prevention of Atrocities Act), 1989, to set aside the order passed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases Registered under the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Villupuram in CrI.M.P.No.1651 of 2021 dated 10.11.2021 and enlarge the appellants on bail in Crime No.208 of 2021 on the file of the respondent police.

For Appellants : Mr.S.Saravana Kumar
(in both Appeals)

For R1 & R2 : Mr.S.Sugendran
(in both Appeals) Government Advocate (CrI.Side)

For R3 : No appearance

COMMON JUDGMENT

The criminal appeals have been filed against the dismissal of the bail orders dated 10.11.2021 passed in CrI.M.P.Nos.1663 of 2021 and 1651 of 2021 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases Registered under the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Villupuram.

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



complainant, Thamarai Selvi is that her husband Ramdev @ Abin was working in Maintenance Department MGM, Chennai and due to Covid pandemic situation, he was not going out and he was at home. On 08.06.2021, at about 8.00 pm, her husband had taken the two wheeler belonging to one Poovarasan and gone out. At about 8.30 pm, her relative one Silambarasan had informed her that eight persons who are known to her had waylaid her husband and questioned him why he had come to the place where they were drinking alcohol and assaulted him with sticks and stones causing injuries to her husband. Hence complaint was given to the respondent police on 09.06.2021. On the complaint, the case was registered by the respondent in Crime No.208 of 2021 for offences under section 147, 148, 341, 294 (b), 324, 506(ii) and 307 I.P.C. The victim died on 12.06.2021 at 0400 hours. Thereafter, the case was altered into one under sections 147, 148, 341, 294(b), 324, 506(ii) and 302 IPC. Later during the course of investigation finding that the victim belongs to SC community, case was altered into one under sections 147, 148, 341, 294(b), 324 506(ii) IPC r/w 302 IPC r/w 3(1)(r)(s) of SC/ST POA Act 2015. Meanwhile, the appellants were arrested on 10.06.2021 and remanded to judicial custody. Accused Nos.1, 4, 6, 7 and 8 had filed CrI.M.P.No.1663 of 2021 and accused Nos.2, 3 and 5 have filed CrI.M.P.No.1651 of 2021 before the learned Sessions Judge, Special Court for Exclusive Trial of Cases Registered under the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Villupuram and both the bail applications were dismissed by an order dated 10.11.2021, against which, the present Criminal Appeals have been filed.

3. Mr.S.Saravana Kumar, learned counsel appearing for the appellants at the outset would submit that even as per F.I.R, the defacto complainant is not an eye witness to the occurrence. The incident had occurred when both the parties were drinking in secluded place outside the village and the assault is a offshoot of a drunken brawl between two groups in an inebriated condition and at that time, in fact, the deceased is the person who is a aggressor in this case, has assaulted one Arumugam, who is A3 in this case. Initially, the deceased had assaulted the appellants with sticks and stones, due to which, Arumugam(A3) in this case sustained injuries. On the complaint given by the said Arumugam (A3), case in Crime No.207 of 2021 was registered against the deceased Ramdev and four of his friends.

4. He would further submit that A1, A4, A6, A7 and A8 in this case also belong to SC community and thereby the offence under SC/ST (Prevention of Atrocities Act cannot be made out against them. Though A2, A3 and A5 belong to different communities, even as per the prosecution all the accused were having drinks together and the incident had not happened on account of any communal hatred or rivalry. He would submit that major part of the investigation is over and the appellants are in custody from 10.06.2021 onwards ie., for



the past six months and the appellants are prepared to abide by any stringent conditions that may be imposed on them and prayed that the appeals may be allowed and the appellants may be granted bail.

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5. Mr.S.Sugendran, learned Government Advocate (Criminal Side) appearing for the respondents 1 and 2 would submit that case has been registered based on the complaint given by one Thamarai Selvi, wife of the deceased. As per the complaint, her husband gone out from her house at 8 pm and at about 8.30 pm she was informed by her relative that the accused had assaulted her husband and his friends with sticks and stones. The incident had occurred when the accused were drinking and the accused had abused the victim calling his caste name and brutally assaulted him. Based on the complaint given by A3, case in Crime No.207 of 2021 had been registered against the deceased and four of his friends. He would further submit that investigation has been completed and final report has also been filed before the Special Court, however, it has not been taken on file.

6. Though notice has been served on the third respondent/defacto complainant and her name is printed in the cause list, there is no representation for the third respondent.

7. Taking into consideration of the facts and the submissions made and that the investigation is completed, this Court is inclined to grant bail to the appellants/accused.

(a) Accordingly, the appellants are ordered to be released on bail on condition that the each of the appellants, 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 Sessions Judge, Special Court for Exclusive Trial of Cases registered under the SC&ST (Prevention of Atrocities) Act, Villupuram 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 Viilupuram Town and appear before the learned Sessions Judge, Special Court for Exclusive Trial of Cases registered under the SC&ST (Prevention of Atrocities) Act, Villupuram daily at 10.30 a.m. until further orders. It is made clear that the appellants shall not enter into the jurisdictional limits of Marakanam Police Station.

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

<https://hcservices.ecourts.gov.in/hcservices/>

(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.

8. In the result, the Criminal Appeals are allowed. The order passed in Crl.M.P No.1663 of 2021 and Crl.M.P.No.1651 of 2021 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases Registered under the Scheduled Caste and the Schedule Tribes (Prevention of Atrocities) Act, 1989, Villupuram are set aside.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mfa

To

1. The Sessions Judge,
Special Court for Exclusive Trial of Cases Registered under the Scheduled Caste and the Schedule Tribes (Prevention of Atrocities) Act, Villupuram.
 2. The Deputy Superintendent of Police,
Kottakuppam Sub-Division,
Aurovil,
Vanur Taluk,Villupuram District.
 3. The Inspector of Police,
Marakkanam Police Station,Villupuram District.
 4. The Public Prosecutor,
High Court, Madras.
- Copy to
The Superintendent,
Central Prison,Cuddalore.

+1 cc to Mr. S.Saravana Kumar, Advocate Sr.NO. 64111

CRL.A.Nos.578 & 603 of 2021

GMR(CO)

A.SK(06.12.2021)