



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 24.03.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl.A.(MD)No.121 of 2021

Murugesan

.. Appellant/Petitioner/Accused

Vs.

1.State represented by,

The Inspector of Police,
All Women Police Station - Karaikudi,
Sivagangai District.
Crime No.2 of 2021.

2.State represented by,

The Deputy Superintendent of Police,
Karaikudi,
Sivagangai District. 1st & 2nd Respondent/Complainant

3.Lakshmi

.. 3rd Respondent/Defacto Complainant

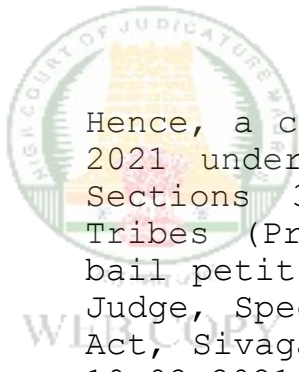
Prayer : This Criminal Appeal filed under Section 14A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, to set aside the order dated 19.02.2021 passed in Crl.M.P.No.225 of 2021 on the file of the Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, Sivagangai in Crime No.2 of 2021 dated 24.01.2021 on the file of the first respondent police.

For Appellant	: Mr.A.N.Ramanathan
For Respondents 1 and 2	: Mrs.S.Bharathi Government Advocate
For Respondent No.3	: Mr.A.Ilayaraja

JUDGMENT

This appeal has been filed to set aside the order passed in Cr.M.P.No.225 of 2021 dated 19.02.2021, on the file of the learned Sessions Judge, Special Court for Exclusive Trial of cases under SC/ST (POA) Act, Sivagangai and to enlarge the appellant on bail.

2.The case against the appellant is that the appellant on false promise to marry the victim, had sexual intercourse with her. Later the victim who came to know that the petitioner was already a married man having a child, moved to Karaikudi and lead a new life. The petitioner and others waylaid the victim and scolded her in filthy language and by uttering her caste name and attacked her.



Hence, a case was registered against the appellant in Crime No.2 of 2021 under Sections 417, 376, 323, 506(ii) and 109 of IPC and Sections 3(1)(r), 3(1)(w)(i) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The appellant has filed a bail petition in Crl.M.P.No.225 of 2021 before the learned Sessions Judge, Special Court for Exclusive Trial of cases under SC/ST (POA) Act, Sivagangai. The petition was dismissed by the learned Judge on 19.02.2021. Against the same, the appellant has preferred the present appeal.

3.On the side of the appellant, it is stated that there was no recovery of any video clippings from the appellant. There was love affair between the appellant and the defacto complainant. The appellant is in custody for the past 60 days. The chargesheet was not yet filed. The statutory period was almost over and the appellant is entitled for bail under Section 165 of Cr.P.C., and prayed the appellant to be released on bail.

4.On the side of the respondents 1 and 2, it is stated that the investigation is in progress. The appellant has involved in grave offence. If he is released on bail, there is possibility for the appellant to abscond or to tamper the witness and prayed the appeal to be dismissed.

5.On the side of the third respondent, it is stated that the co accused are still absconding. There are three named accused and three unnamed accused. The petitioner committed rape and he and the other accused insulted the defacto complainant in the public by uttering her caste name and threatened her with dire consequences and prayed the petition to be dismissed.

6.It is seen that the appellant is in custody for the past 60 days. So far chargesheet was not yet filed and the investigation is still pending. Considering the period of incarceration, this Court is inclined to release the appellant on bail on the following conditions:

- (i) the appellant shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate, Karaikudi.
- (ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Judicial Magistrate, Karaikudi, may obtain a copy of any valid identity proof to ensure their identity.
- (iii) On release, the appellant shall appear before the first respondent Police Station daily at 10:30 a.m, until further orders.



WEB COPY

(iv) the appellant shall not tamper with evidence or witness either during investigation or trial.

(v) the appellant shall cooperate with the investigation and the appellant shall appear before the second respondent and Court both during investigation and trial, as and when required.

(vi) On breach of any of the aforesaid conditions, the learned 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]**.

Sd/-

Assistant Registrar(Writs)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Mrn

Note : In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The Sessions Judge,
Special Court for Exclusive Trial of cases under SC/ST (POA) Act,
Sivagangai.
- 2.The Judicial Magistrate,
Karaikudi.
- 3.The Chief Judicial Magistrate, Sivagangai.
- 4.The Inspector of Police,
All Women Police Station - Karaikudi,
Sivagangai District.
- 5.The Deputy Superintendent of Police,
Karaikudi, Sivagangai District.



6.The Superintendent, Central Prison,
Madurai.

7.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.AN.RAMANATHAN, Advocate (SR-13368[F] dated
24/03/2021)

Crl.A.(MD)No.121 of 2021
24.03.2021

ns (CO)
TR(25.03.2021) 4P 9C