



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 19.3.2021

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. A. (MD)No.119 of 2021

R.Kalyana Sundaram

.. Appellant/Accused

Vs.

1.The Deputy Superintendent of Police,
Uthamapalayam, Theni.

2.The Inspector of Police,
Uthamapalayam Police Station (AWPS)
Theni District. Cr No. 9/2020. ... Respondents/Complainants

3.L. Saritha .. Respondent/Defacto Complainant

Prayer : This Criminal Appeal is filed under Section 14(A) (2) of the The Schedule Castes and Tribes Prevention of Atrocities Act, to set aside the order, dated 04.03.2021, made in Crl.M.P.No.322 of 2021 on the file of the Sessions Judge, Special Court for PCR Cases, Theni and to enlarge the appellant on bail.

For Appellant : Mr.Veera Kathiravan, Senior Counsel
for Mr.A.Joseph Jerry

For R1 and R2 : Mr.S.Chandrasekar
Additional Public Prosecutor

JUDGMENT

This appeal has been filed to set aside the order, dated 04.03.2021, made in Crl.M.P.No.322 of 2021 on the file of the Sessions Judge, Special Court for PCR Cases, Theni and enlarge the appellant on bail.

2.The case against the appellant is that the appellant by giving a false promise of marriage and has cheated the victim girl / defacto complainant and scolded her in filthy language and cause simple injuries and insulted the defacto complainant by mentioning her Caste name in the public. A case in Crime No.9 of 2020 for the offence under Sections 417, 376, 294(b), 323, 506(i) I.P.C. and Sections 3(1) (r), 3(1)(s), 3(2)(v) of SC/ST (POA) Amendment Act was registered by the second respondent. The appellant filed a petition before this Court in Crl.O.P.(MD)No.10482 of 2020, seeking



anticipatory bail. On the direction of this Court, the appellant surrendered himself before the trial Court, but, the trial Court accepted the surrender and dismissed the bail petition. Against the same, the appellant preferred the appeal before this Court.

3. On the side of the appellant, it is stated that there was love affair between the appellant and the defacto complainant and they lived together. Subsequently, the appellant came to know that the defacto complainant is having intimacy with number of persons. She herself broke up with the appellant. The appellant got a Government Job and he got married with another lady. Subsequently, the defacto complainant lodged this complaint. The defacto complainant is an M.Sc., M.Phil., degree holder and she is doing Phd.,. The victim had a relationship with the appellant on her own consent, there is no question of rape and prayed the appellant to be released on bail.

4. On the side of the respondents 1 and 2, it is stated that there are other allegations against the appellant. The appellant insulted the defacto complainant and scolded her in filthy language using her caste name and prayed the petition to be dismissed.

5. Though notice was served to the defacto complainant/ third respondent, name printed, none appears for the defacto complainant / third respondent.

6. This Court has already ordered for the surrender of the appellant and for considering the bail petition on the same day. The appellant voluntarily surrendered before the trial Court. The bail petition was dismissed on that date. The appellant is in custody for the past 14 days and he is a Government servant, there is no possibility for absconding. Hence, this Court is inclined to grant bail to the appellant. Hence, the Criminal Appeal is allowed and the Appellant is ordered to be released on bail, subject to 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 Sessions Judge, Special Court for PCR Cases, Theni.
- (ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Sessions Judge, Special Court for PCR Cases, Theni, may obtain a copy of any valid identity proof to ensure their identity.



(iii) On release, the appellant shall appear before the second respondent on the **first working day of every English Calendar month at 10.00 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 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 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(CRL SIDE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Ls

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 PCR Cases, Theni.

2.The Deputy Superintendent of Police,
Uthamapalayam, Theni.

3.The Inspector of Police,
Uthamapalayam Police Station (AWPS)
Theni District.

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



4.The Officer Incharge,
Melur Sub Jail, Madurai District.

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

+1 CC to M/s.A.JOSEPH JERRY, Advocate SR-12615[F] dated 19/03/2021

Crl. A.(MD)No.119 of 2021
19.03.2021

SJ(CO)
TR(19.03.2021) 4P 7C