



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 25.03.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. A. (MD)No.143 of 2021

WEB COPY

Shajin Kumar @ Shaji Mon

.. Appellant/Petitioner

Vs.

1.The Deputy Superintendent of Police,
Thuckalay Sub Division,
Kanyakumari District.

2.The Inspector of Police,
Kulasekaram Police Station,
Kanyakumari District
(Cr No.41/2021)

.. Respondents 1 and 2/Complainant

3.Shanmugam

.. 3rd Respondent/De-Facto Complainant

Prayer : This Criminal Appeal filed under Section 14(A)(2) of the The Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, to set aside the order passed in Crl.M.P.No.429 of 2021, on the file of II Additional District and Sessions Court, (F.A.C.), Tirunelveli and to release the petitioner on bail pending investigation in Crime No.41 of 2021, on the file of Kulasekaram Police Station, Kanyakumari District.

For Appellant

: Mr.S.C.Herold Singh

For Respondents 1 and 2

: Mr.S.Chandrasekar

Additional Public Prosecutor

For 3rd Respondent

: Mr.G.Anto Prince

JUDGMENT

This appeal has been filed to set aside the order passed in Crl.M.P.No.429 of 2021, on the file of II Additional District and Sessions Court, (F.A.C.), Tirunelveli and to release the petitioner on bail pending investigation in Crime No.41 of 2021 on the file of Kulasekaram Police Station, Kanyakumari District.

2.The case was registered against the appellant and others in Crime No.41 of 2021, by the second respondent police under Sections 294(b), 323, 506(i) I.P.C. r/w. Section 3(1)(r), 3(1)(s), 3(2)(va) of SC / ST (PoA) Act, as "man missing" and the appellant was arrested by the respondent police. Subsequently, the appellant filed a bail petition in Cr.M.P.No.429 of 2021 before the II Additional District and Sessions Court, (F.A.C.), Tirunelveli. The learned Judge dismissed the petition. Against which, the appellant preferred the present appeal before this Court.



3. On the side of the appellant, it is stated that the appellant was arrested on 26.02.2021. The first son of the defacto complainant morphed the photograph of a lady and circulate it in the Internet with some wordings degrading that lady. The Mobile said to have been used by the appellant does not belong to the appellant. There is no injuries to the son of the defacto complainant and prayed the petition to be allowed.

4. On the side of the third respondent, it is stated that the son of the defacto complainant is a mentally challenged person, but he is able to do some small works. He was taken up by the appellant and others and was assaulted from 07.00 a.m., till 12.00 p.m., there were external injuries and that he ran away from the house due to the stress and he is still absconding. The mother of the victim also was admitted in the hospital, due to the absence of the victim and due to the fear whether the victim is still alive. The present condition of the victim cannot be ascertained at this stage. The appellant has alleged that the victim has done some morphing work in the Internet, but, the appellant has no right to punish the brother of the defacto complainant. If the appellant is released on bail, there will be law and order problem and already there is communal tension in that area, A2 in this case is absconding and prayed the petition to be dismissed.

5. On the side of the respondents 1 and 2, it is stated that the occurrence took place on 17.02.2021 and the complaint was registered on 19.02.2021. The victim was missing and could not be traced out till now. The injuries of the victim could not be noted. The appellant was arrested only on 26.02.2021 and A2 in this case is still absconding. If the appellant is released on bail, there is a chance for tampering the witnesses and prayed the appeal to be dismissed.

6. It is stated that the victim is a mentally challenged person. It is stated that the victim is missing and the whereabouts of the victim could not be traced out by the Police. One of the accused is still absconding and the investigation is still pending. If the appellant is released on bail, there is possibility of the petitioner tampering the witnesses. In the above circumstances, this Court is not inclined to grant bail to the appellant. Hence, the Criminal Appeal is dismissed.

Sd/-

Assistant Registrar (RTI Act)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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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 II Additional District and Sessions Judge (F.A.C)
Tirunelveli.

2.The Deputy Superintendent of Police,
Thuckalay Sub Division, Kanyakumari Dist.

3.The Inspector of Police,
Kulasekaram Police Station, Kanyakumari Dist..

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

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-14038[F] dated 29/03/2021)

+1 CC to M/s.G.ANTO PRINCE, Advocate (SR-14016[F] dated 26/03/2021)

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