



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.08.2021**

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGOVAN**

Crl.O.P. (MD) No.10883 of 2021

Vairamuthu @ Sangilimuthu ... Petitioner/Accused No.1

Vs.

1.The State represented by its,
The Deputy Superintendent of Police,
Periyakulam Sub Division,
Theni District.

2.The State represented by its
The Inspector of Police,
Jayamangalam Police Station,
Theni District.

(Crime No.207 of 2021) ... Respondents 1 & 2/Complainants

3.Lingammal ... 3rd Respondent/Defacto Complainant

4.Ganesamoorthy ... 4th Respondent/Victim

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to direct the Special Court for trial of cases under SC/ST (POA) Act, Theni to consider the bail application of the petitioner in connection with the FIR in Crime No.207 of 2021 on the file of the 2nd respondent Police, on the very same date of the surrender of the petitioner and consequently, to enlarge the petitioner on bail on the very same day itself by disposing the petitioner's bail application on its merits.

For Petitioner : Mr.M.S.Jeyakarthik

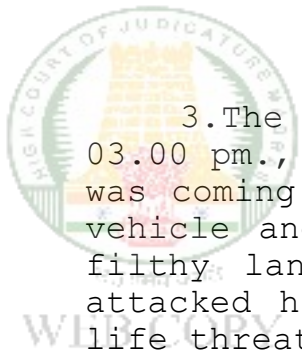
For R1 and R2 : Mr.R.M.Anbunidhi

Additional Public Prosecutor (Crl.Side)

ORDER

This petition has been filed seeking a direction to the learned Special Judge, Special Court for trial of cases under SC/ST (POA) Act, Theni to accept the surrender of the petitioner and consider the bail application on the date of surrender in connection with Crime No.207 of 2021 on the file of the 2nd respondent police.

2.The petitioner is the 1st accused in Crime No.207 of 2021 on the file of the 2nd respondent police for the offences punishable under Sections 147, 148, 341, 294(b), 324, 307, 427 and 506 (ii) of I.P.C and Section 3(1)(r) and 3(i) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) amended Act, 2015 and under Section 3 (2)(v) of the SC/ST (Prevention of Atrocities) Act, 1989.



3.The case of the prosecution is that on 14.06.2021 at about 03.00 pm., when the defacto complainant's son, namely, Ganesamoorthy was coming near Kullapuram Society, the accused persons stopped his vehicle and developed wordy quarrel with him by scolding him with filthy language in order to denigrate the community of him and attacked him with wooden log and caused injuries and further gave life threat to him with dire consequences. So, the complaint.

4.Heard both sides.

5.The earlier application filed by this petitioner came to be dismissed by this Court on the ground of misusing the direction issued by this Court. This petitioner appears to have involved in the present occurrence and he is not entitled for the discretionary relief of direction. The order has been passed in Crl.O.P.(MD) No.9266 of 2021 on 13.07.2021.

6.The learned counsel appearing for the petitioner at the time of argument would submit that both the occurrences, namely, Crime No.204 of 2021 and Crime No.207 of 2021 occurred in the same day, but of course at different time. So, the observation made by this Court to the effect that by misusing the direction issued by this Court in Crime No.204 of 2021, this offence has been committed, is not correct on records.

7.The learned Additional Public Prosecutor (Crl.side) appearing for the respondents 1 and 2 would submit that it is a mistake that has been committed by the police by informing that this petitioner misused the direction issued by this Court on the earlier occasion and committed similar offence. In fact, the petitioner ought to have filed a petition to review the aforesaid order. So, without filing such review petition, this petition has been filed for the second time.

8.Since, there is a factual mistake on the part of this Court in narrating the incident, I am of the considered view that the error ought to be rectified by this Court in this order. Since this Court has given a similar direction in Crl.O.P.(MD) No.9281 of 2021, this petitioner is also entitled for the similar direction, since it has been submitted in Crl.O.P.(MD) No.9281 of 2021 to the effect that both the cases came to be registered on the basis of the case and case in counter complaints. So, considering the aforesaid fact, this petition is allowed with the following directions:-

1) The petitioner shall appear before the Special Court for trial of cases under SC/ST (POA) Act, Theni, within a period of 15 days from the date of receipt of a copy of this order.

2) On such surrender along with notice served to the defacto complainant, the concerned Judge



shall consider the bail application filed by the petitioner and pass orders on merits on the same day of his surrender, after hearing the defacto complainant by complying with Section 15(5) of the Act.

WEB COPY

Sd/-

Assistant Registrar (W)

// 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 Special Judge,
Special Court for trial of cases under SC/ST (POA) Act,
Theni.
- 2.The Deputy Superintendent of Police,
Periyakulam Sub Division,
Theni District.
- 3.The Inspector of Police,
Jayamangalam Police Station,
Theni District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate (SR-27077[F]
dated 24/08/2021)

Crl.O.P. (MD) No.10883 of 2021
23.08.2021

GC (01.09.2021) /3P/6C