



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **07.10.2021**

CORAM:

THE HONOURABLE MR.JUSTICE **R.PONGIAPPAN**

Crl.A(MD) No.385 of 2021

Mayakannan

: Appellant/Petitioner No.2/
Accused No.2

Vs.

1.State through the
Deputy Superintendent of Police,
Thiruchuzhi Sub-Division,
Virudhunagar District.

2.The Inspector of Police,
Veeracholan Police Station,
Virudhunagar District.

(In Crime No.27 of 20201)

: Respondents 1 & 2/Respondents
1 & 2/Complainants

3.Mari Ganesh

: 3rd Respondent /3rd Respondent/
De-facto Complainant

PRAYER: The Criminal Appeal is filed under Section 14-A(ii) of SC/ST (POA) Act, 1989, to call for the records relating to the order dated 30.07.2021 made in Cr.M.P.No.1184 of 2021 on the file of the Learned Sessions Judge, Special Court for Trial of SC/ST (POA) Act Cases, Virudhunagar District at Srivilliputhur and set aside the same and enlarge the appellant on bail.

For Appellants

: Mr.V.Sasi Kumar

For R1 & R2

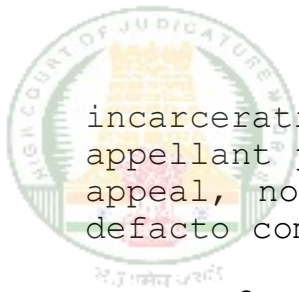
: Mr.E.Antony Sahaya Prabahar

Additional Public Prosecutor

JUDGMENT

The present Criminal Appeal has been filed to set aside the impugned order, dated 30.07.2021 made in CrI.M.P.No.1184 of 2021 in Cr.No.27 of 2021 of Veeracholan Police Station.

2.The appellant/petitioner is arrayed as accused No.2 in the above referred crime number. The said case has been registered against this petitioner and other accused under Sections 294(b), 323, 379 of IPC and Section 3(1)(r), 3(i)(s) and 3(ii)(va) of SC & ST Act. After registering the FIR, the petitioner herein voluntarily surrendered before the trial Court and filed an application under Section 437 of Cr.P.C., wherein, he praying to enlarge the bail. In view of the impugned order dismissed the application filed by the petitioner, the petitioner is in



incarceration from 30.07.2021. Challenging the said order, the appellant prepared this appeal before this Court. After filing this appeal, notice is duly served to the third respondent, who is the defacto complainant in the above referred crime number.

3.Today, when this appeal is came up for hearing, there is no representation on the side of the third respondent.

4.On the other hand, the learned counsel appearing for the appellant appeared before this Court through Video Conferencing and made the submission as for the past 69 days, the appellant was in judicial custody. He would further submit that the appellant is a first offender and as of now, the portion of the investigation has been completed and therefore, prayed for enlarging the petitioner on bail.

5.The learned Additional Public Prosecutor appearing for the respondents 1 & 2 would submit that the major portion of the investigation has been completed and as of now 11 witnesses were examined on the side of the prosecution.

6.I have considered the rival submissions made by the learned counsels appearing on either side.

7.Now, on going through the impugned order dated 30.07.2021, passed by the learned Sessions Judge, Special Court for Trial of SC/ST Act Cases, Virudhunagar District, it appears that nothing was averred about the previous antecedents of the present appellant. After mentioning the reason that the other accused in this case is having one previous case under Section 302 I.P.C., dismissing this petition is not necessary. However, as of now, the co-accused in this case, who is having previous case was released on bail by this Court. More than that, considering the period of incarceration, further custodial interrogation is not necessary for completing the investigation.

8.Considering the above facts and circumstances of the case, this Court is inclined to allow the Criminal Appeal by setting aside the order, dated 30.07.2021 made in Crl.M.P.No.1184 of 2021 on the file of the learned Sessions Judge, Special Court for Trial of SC/ST (POA) Act Cases, Virudhungar District.

9.Accordingly, the Criminal Appeal is allowed and the order, dated 30.07.2021 made in Crl.M.P.No.1184 of 2021 on the file of the learned Sessions Judge, Special Court for Trial of SC/ST (POA) Act Cases, Virudhungar District, is set aside. The appellant is ordered to be released on bail on his executing 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 Trial of SC/ST (POA) Act Cases, Virudhungar District, and



on further condition that:

[a] the appellant shall appear before the **respondent police** daily at 10.30 a.m. until further orders;

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[b] the appellant shall not tamper with evidence or witness either during investigation or trial;

[c] the appellant shall not abscond either during investigation or trial;

[d] 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 appellants released on bail by the Trial Court itself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To:-

- 1.The Sessions Judge,
Special Court for Trial of SC/ST (POA) Act Cases,
Virudhunagar District.
- 2.The Deputy Superintendent of Police,
Thiruchuzhi Sub-Division,
Virudhunagar District.
- 3.The Inspector of Police,
Veeracholan Police Station,
Virudhunagar District.
- 4.The Officer in-charge,
District Prison,
Dindigul.



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

Copy to:

The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1 CC to M/s.V.SASI KUMAR, Advocate (SR-31589[F] dated 07/10/2021)

CrI.A(MD)No.385 of 2021
07.10.2021

ARK(CO)/RS (11.10.2021) 4P 9C