



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATE : 20.01.2021
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THE HONOURABLE MRS. JUSTICE R. THARANI

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Crl. A. (MD)No.359 of 2020

Kuttaimani @ Manikandan ... Appellant / Petitioner / A-2

Vs.

1.The Assistant Commissioner of Police,
Anna Nagar, Madurai City. ... 1st Respondent / Investigation
Officer

2.State Rep., by
The Inspector of Police,
Anna Nagar Police Station,
Madurai City,
Madurai District.
(Crime No.1788 of 2020) ... 2nd Respondent / Complainant

3.Alagarsamy ... 3rd Respondent / Defacto Complainant

Prayer : This criminal appeal filed under Section 14-A(2) of SC/ST (POA) Amended Act, 2016, against the order dated 11.11.2020 passed in Cr.M.P.No.596 of 2020 on the file of the III Additional District and Sessions Judge (PCR), Madurai, Madurai District, dismissing the bail petition filed by the appellant herein in Crime No.1788 of 2020 on the file of the respondent herein which had been altered for the offences under Sections 452, 294(b), 324, 427, 506(ii) r/w. Section 3(1)(r), 3(1)(s), 3(2)(va) of SC / ST Prevention of Atrocities Amendment Act, 2015 and Sections 7 and 8 of POCSO Act. ((*)Prayer amended as per order of this Court dated 07.01.2021 in Crl MP(MD)No.47 of 2021)

For Appellant

: Mr.J.Devasenar

For R1 & R2

: Mr.S.Chandra Sekar

Additional Public Prosecutor

JUDGMENT

This Criminal Appeal has been filed to set aside the order, dated 11.11.2020 passed in Cr.M.P.No.596 of 2020 on the file of the III Additional District and Sessions Judge (PCR), Madurai, Madurai District, and enlarge the appellant on bail.

2. A case against the appellant is registered in Crime No.1788 of 2020 by the respondent police under Section 452, 294(b), 324, 427, 506 (ii) I.P.C. r/w. Section 3(1)(s), 3(1)(r), 3(1)(r)



Section 3(2)(va) of SC / ST Act. The appellant filed a petition for bail in Cr.M.P.No.596 of 2020. That petition was dismissed by the Trial Court on 11.11.2020. Against the same, the appellant preferred this Criminal Appeal.

3.The case against the appellant is that one Karthickraja/A1 contacted the grand-daughter of the defacto complainant over phone and the same was questioned by the defacto complainant and on 16.10.2020 at about 11.30 p.m., Karthickraja/A1 and the appellant/A2 and others entered into the house of the defacto complainant, scolded him in filthy language, attacked him on his rightarm left knee, right leg and on his head. One Soundarapandian, another victim try to intervene the appellant, the appellant attacked him on the left hand and hence, a case was registered.

4.On the side of the appellant, it is stated that only because there was love affairs between the grand-daughter of the defacto complainant and Karthickraja/A1, a false case was foisted against Karthickraja/A1 and the appellant. The appellant is in custody for the past 92 days and prayed the appellant to be released on bail.

5.On the side of the first respondent, it is stated that investigation is under progress. Since the case is under SC / ST Act, the Commissioner of Police issued proceedings and then the first respondent taken up the case for investigation and the examination of the witnesses is in progress. If the accused is released on bail, there is a chance for tampering the witnesses.

6.On the side of the third respondent, it is stated that the defacto complainant warned his grand-daughter / Shanmugapriya and A1 and A2 trespassed into the house with knife and sword and attacked the defacto complainant and another person in a brutal manner and threatened them with dire consequences. If the appellant is let out on bail, there is danger for the family members of the victim and prayed the appeal to be dismissed.

7.It is seen that the investigation is not yet completed, charge sheet is not yet filed. It is stated that injured persons were discharged from the hospital. The appellant is in custody for the past 92 days, i.e., beyond the statutory period. Therefore, the appellant is entitled for bail under Section 167 (2) Cr.P.C. Hence, this Court is inclined to release the appellant on bail. 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 III Additional District and



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Sessions Judge (PCR), Madurai, Madurai District;
(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the III Additional District and Sessions Judge (PCR), Madurai, Madurai District, may obtain a copy of any valid identity proof to ensure their identity.

- (iii) The appellant should not interfere in the investigation;
- (iv) The appellant should co-operate with the respondent for investigation;
- (v) The appellant shall appear before the 2nd respondent Police daily twice ie. 10.30 a.m and 05.00 p.m until further orders ;
- (vii) 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 (CS III)

// 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 III Additional District and Sessions Judge (PCR),
Madurai, Madurai District

2.The Assistant Commissioner of Police,
Anna Nagar, Madurai City.



3.The Inspector of Police,
Anna Nagar Police Station,
Madurai City,
Madurai District.

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

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