



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 08.10.2021

Pronounced on : 21.10.2021

C O R A M

THE HON'BLE MR.JUSTICE R. PONGIAPPAN

Criminal Appeal (MD) No.397 of 2021

L.Saravanakumar

... Appellant/Petitioner

versus

1.The Assistant Commissioner of Police,
Thilagar Thidal, Madurai City.

2.State,
Rep. by Inspector of Police,
All Women Police Station-South,
Madurai City.
(Crime No.18 / 2021)

... Respondents 1 & 2/Complainants

3.Kavibala

... 3rd Respondent/Defacto Complainant

Criminal Appeal filed under Section 14A(2) of SC/ST (POA) Act, 1989, as amended by Act 1 of 2016, against the order of dismissal dated 08.09.2021, passed in Crl.M.P.No.921 of 2021, on the file of the III Additional District and Sessions (PCR) Court, Madurai.

For Appellant : Mr.G.Sivaraja

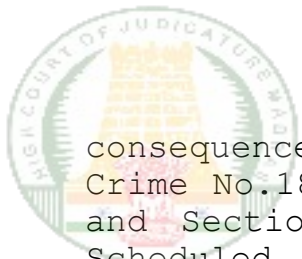
For R1 and R2 : Mr.M.Muthumanikkam

Government Advocate (Crl. Side)

JUDGMENT

The present appeal is directed against order of dismissal dated 08.09.2021, passed in Crl.M.P.No.921 of 2021, on the file of the III Additional District and Sessions (PCR) Court, Madurai.

2.The case against the appellant is that after knowing the fact that the victim belongs to Scheduled Caste Community, he fell in love with her and in due course, on 03.03.2021, he approached the victim girl in her rented house and under the pretext of promise to marry her, had sexual intercourse with her and the same was continued on 15.03.2021, 27.03.2021 and 14.04.2021. After sometime from the said occurrence, the appellant avoided to speak with her and therefore, on 29.04.2021 she visited the appellant's house and requested him to marry her, at that time, the appellant's mother, who is arrayed as second accused and the appellant abused the victim



consequences. Hence, a case was registered against the appellant in Crime No.18 of 2021 under Sections 417, 376(2)(n) and 506(i) I.P.C. and Sections 3(1)(w)(ii) and 3(2)(v) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015. Therefore, the appellant has filed a bail petition in Crl.M.P.No.921 of 2021 before the III Additional District and Sessions Court (PCR), Madurai. The said petition was dismissed by the learned III Additional District and Sessions Judge (PCR), Madurai, on 08.09.2021. Aggrieved over the same, the appellant has preferred the present appeal.

3.On the side of the appellant, it is stated that there was enormous delay in preferring the complaint before the respondent Police. It was further contended that the appellant is in judicial custody for the past 60 days and the statutory period was almost completed and thereby, he is entitled for bail and prayed to enlarge the appellant on bail.

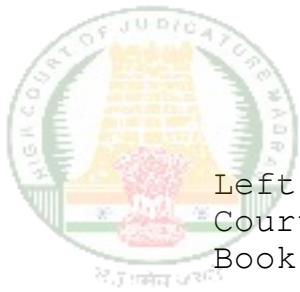
4.On the side of the respondents 1 and 2, it is stated that the investigation in this case is in progress. It was further contended that the appellant has involved in grave offence. If he is released on bail, there is possibility for the appellant to abscond or to tamper the witness and prayed for dismissal of this appeal.

5.The victim girl, who appeared before this Court through Video Conferencing, raised strong objection to grant bail to the appellant, as due to the act committed by him, her entire life was spoiled and prayed for dismissal of this appeal.

6.I have considered the rival submissions made by the learned counsel on appearing on either side and perused the materials available on record.

7.From the materials available on record, it is seen that the alleged occurrence had happened on 03.03.2021 and thereafter, the same was continued till 14.04.2021 and the complaint pertains to the said occurrence had been lodged only on 30.07.2021 with the delay of three months. Moreover, after registering the case, the appellant is in judicial custody for the past 60 days i.e., from 02.08.2021 onwards. According to the prosecution, most of the witnesses have already been examined and the investigation is almost completed. Therefore, further custodial interrogation is not necessary in this case. Accordingly, considering the period of incarceration, this Court is inclined to release the appellant on bail on the following conditions:-

- (i) The appellant shall execute a bond for a sum of Rs.25,000/- with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned III Additional District and Sessions Judge (PCR), Madurai.



(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity.

(iii) On release, the petitioner shall appear before the second respondent police daily at 10.30 a.m. for the period of four weeks and thereafter, as and when required for interrogation.

(iv) The appellant shall not tamper the witness either during investigation or trial.

(v) On breach of any of the aforesaid conditions, the learned trial Judge 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 trial Judge 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 (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Smn2

To

1.The III Additional District and Sessions Judge (PCR),
Madurai.

2.The Assistant Commissioner of Police,
Thilagar Thidal,
Madurai City.

3.The Inspector of Police,
All Women Police Station-South,
Madurai City.

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

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



6.The Superintendent,
District Jail,
Theni.

+1CC to M/S. G.Sivaraja, Advocate (SR.No.7263)

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MGJ(21.10.2021) 4P 9C