



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 08.01.2021

CORAM:

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl.A.(MD)No.374 of 2020

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1.Rajkumar
2.Honestraj

... Appellants / Accused Nos.1 & 2
Vs.

1.The Deputy Inspector of Police,
Musiri, Trichy District.

2.The Inspector of Police,
Musiri Police Station,
Trichy City,

(In Crime No.1730 of 2020) ... Respondents 1&2/ Complainant

3.Edayakani ... 3rd Respondent /Defacto complainant

PRAYER: Criminal Appeal is filed under Section 14-A (2) of the Scheduled Caste/Scheduled Tribes (POA) Act, 1989, to call for the records pertaining to the order dated 08.12.2020 made in Crl.M.P.No.4198 of 2020 on the file of I Additional District Judge (PCR Cases), Trichy and to set aside and enlarge the appellants on bail in connection with Crime No.1730 of 2020 on the file of the second respondent by allowing this Criminal Appeal.

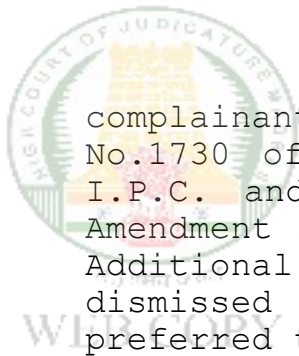
For Appellants : Mr.B.Karthikeyan
For R- 1 and R-2 : Mrs.S.Bharathi
Government Advocate
For R-3 : No appearance

JUDGMENT

Heard the learned counsel appearing for the appellants and the learned Government Advocate appearing for the respondents 1 and 2. Notice was served on the third respondent, name printed in the cause list, none appeared for the third respondent / defacto complainant.

2. This appeal has been filed against the order, dated 08.12.2020, made in Crl.M.P.No.4198 of 2020 on the file of I Additional District Judge (PCR Cases), Trichy and to enlarge the appellants on bail.

3. The allegation against the appellants is that on 21.11.2020, the first appellant abused the victim in filthy languages and all the appellants and other accused insulted the defacto complainant by uttering his caste name and assaulted the defacto complainant and also criminally intimidated him. On the complaint of the defacto



complainant, a case was registered against the accused in Crime No.1730 of 2020, under Sections 294(b), 323, 324 and 506(ii) of I.P.C. and Section 3(1)(r), 3(1)(s), 3(2) (va) of SC/ST (POA) Amendment Act. The appellants filed a bail petition before the I Additional District Judge (PCR Cases), Trichy. That petition was dismissed by the trial Court. Against which, the appellants preferred this Criminal Appeal.

4. On the side of the appellants, it is stated that the house of the second accused is situated just opposite to the house of one Mallika and on 22.11.2020, the defacto complainant and his friends parked their vehicle in front of the second accused, when the same was questioned by the wife of the second accused, there was a wordy quarrel and hence, the wife of the second appellant gave a complaint against the defacto complainant and his friends and a F.I.R. was registered in Crime No.1729 of 2020, under Sections 147, 294(b), 323, 324, 506(ii) I.P.C against them and only as a counter blast, the defacto complainant has lodged a false complaint and hence prayed the appeal to be allowed.

5. On the side of the respondents 1 and 2, it is stated that the appellants were arrested on 24.11.2020 and the investigation is in the initial stage. The appellants are A2 and A4 in the case and the other accused A1 and A3 have obtained a direction to consider their bail petition on the same day of their surrender. Though the order was passed by this Court on 09.12.2020 till today, A1 and A3 were not surrendered before the Court. Both the appellants are having previous cases. The first appellant is having a case in Crime No.398 of 2019, under Section 379 I.P.C. r/w. Section 21(1) of MMDR Act and the second appellant is having a case in Crime No.11326 of 2020 under Sections 294(b), 323 I.P.C. If the appellants are released on bail, there is chance for tampering the witness and prayed the appeal to be dismissed.

6. It is seen that the appellants are in custody for the past 47 days. There is a counter case against the defacto complainant. In view of the above facts and circumstances of case and considering the period of incarceration and also considering the nature of offence, this Criminal Appeal is allowed and the order, dated 08.12.2020, made in Crl.M.P.No.4198 of 2020 on the file of I Additional District Judge (PCR Cases), Trichy, is set aside and the appellants are ordered to be enlarged on bail on the following conditions:

(i) The appellants shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) each with two sureties, each for a like sum, to the satisfaction of the learned I Additional District Judge (PCR Cases), Trichy.

(ii) the sureties shall affix their photographs and Left Thumb Impression in the

<https://hcservices.ecourts.gov.in> bond and the learned I Additional



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District Judge (PCR Cases), Trichy, may obtain a copy of their any valid identity proof to ensure their identity.

(iii) The appellants should not interfere in the investigation;

(iv) The appellants should co-operate with the respondent for investigation;

(v) The appellants shall appear before the respondent police daily twice ie. 10.00 a.m and 05.00 p.m ;

(vii) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the appellants in accordance with law as if the conditions have been imposed and the appellants 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(Records)

// 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 I Additional District Judge (PCR Cases), Trichy
- 2.The Deputy Inspector of Police,
Musiri, Trichy District.
- 3.The Inspector of Police,
Musiri Police Station,
Trichy City,
- 4.The Superintendent of Prison,
Central Jail, Trichy.



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

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