



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 19.11.2021

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THE HONOURABLE MRS. JUSTICE R. THARANI

CrI.A.(MD)No.435 of 2021

Solairaja

.. Appellant/Petitioner

Vs.

State through,

1.The Assistant Commissioner of Police,
Annanagar Police Station,
Madurai.

... 1st Respondent/Respondent

2.The Inspector of Police,
Annanagar (L&O) Police Station,
Madurai District.
In Crime No.1593 of 2021.

... 2nd Respondent/Complainant

3.Mareeshgayathri
Complainant

..3rd Respondent/Defacto

Prayer : This Criminal Appeal is filed under Section 14A (2) of Scheduled Caste/Scheduled Tribes Act, 1989, as amended by Act 1 of 2016, to call for the records relating to the order in CrI.M.P.No.1262 of 2021, dated 06.10.2021, on the file of the III Additional Sessions Judge (PCR Cases), Madurai, and to set aside the same and to grant bail to the appellant by allowing this Appeal.

For Appellant : Mr.S.Sukumar

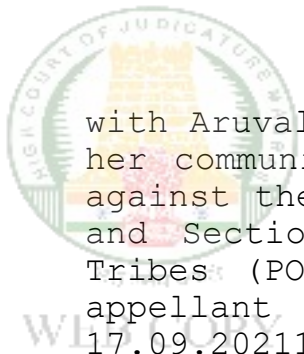
For Respondents 1 and 2 : Mr.K.Suresh Kumar
Government Advocate

For R3 : No appearance

JUDGMENT

This appeal has been filed to set aside the order in CrI.M.P.No.1262 of 2021, dated 06.10.2021, on the file of the III Additional Sessions Judge (PCR Cases), Madurai and to enlarge the appellant on bail.

2. The case against the appellant is that while the defacto complainant was in her house, the appellant entered into her house



with Aruval and attacked her with Aruval and abused her, by uttering her community name. A case in Crime No.93 of 2021 was registered against the appellant under Sections 452, 294(b), 324, 307 of I.P.C and Section 3 (2)(va) of the Scheduled caste and the Scheduled Tribes (POA) Amendment Act by the second respondent Police. The appellant was arrested and remanded to judicial custody on 17.09.2021 and he filed a bail petition in Crl.M.P.No.1262 of 2021, before the III Additional District and Sessions Judge (PCR Cases), Madurai. That petition was dismissed by the trial Court. Against which, the appellant has preferred this appeal.

3. On the side of the appellant, it is stated that the appellant is in custody for the past 60 days. The alleged occurrence is inside the house and the alleged wordings were uttered only inside the house and hence, the offence under the provision of SC / ST (POA) Act is not made out. The defacto complainant's daughter and the appellant were having extra marital relationship and both of them attempted to commit suicide. There was no overt act against the appellant in the F.I.R and there is no motive for the appellant to commit any offence. The defacto complainant, who is not agreeing with the relationship between the daughter and the appellant, lodged a false complaint against the appellant and prayed the appellant to be released on bail.

4. On the side of the prosecution, it is stated that the appellant has executed a bond under Section 110 of Cr.P.C. During the pendency of the bond period, the appellant has involved in this offence. The appellant is having three previous cases. If he is released on bail, there is a chance for the appellant to tamper the evidence and to threaten the witnesses and there will be law and order problem, since two communities involved in the matter and prayed the appeal to be dismissed.

5. Though the name of the third respondent was printed in the cause list, none appears on behalf of the third respondent.

6. It is seen that the previous cases against the appellant are of the year 2014, 2016 and the third case is registered under Section 110 Cr.P.C. The appellant is in custody for the past 60 days and major portion of the investigation might have been completed by this time. Hence, this Court is inclined to release the appellant on bail with certain condition. This Criminal Appeal is allowed and the appellant is ordered to be released on bail on 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 Sessions Judge (PCR Cases), Madurai.



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

(iii)On release, the appellant should stay in **Kanyakumari District** and to sign before the **Kanyakumari Town Police Station, Kanyakumari**, daily twice ie. at 10:30 a.m, and 05.30 pm. until further orders. The appellant should not enter in **Madurai District**, until further orders.

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

(v) the appellant shall cooperate with the investigation and the appellant shall appear before the second respondent and Court both during investigation and trial, as and when required.

(vi)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(T & P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Ls

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 Sessions Judge (PCR Cases),
Madurai.

2.The Assistant Commissioner of Police,
Annanagar Police Station,
Madurai.

3.The Inspector of Police,
Annanagar (L&O) Police Station,
Madurai District.

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

Copy to

The Inspector of Police,
Kanyakumari Town Police Station,
Kanyakumari.

+1 CC to M/s.S. SUKUMAR, Advocate (SR-35283[F] dated 22/11/2021)

Crl.A.(MD)No.435 of 2021
19.11.2021

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