



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 17.11.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl.A.(MD)No.443 of 2021

Balamurugan ...Petitioner/Sole Accused
Vs.
State through,
1.The Deputy Superintendent of Police,
Aruppukottai Sub Division,
Virudhunagar District.
2.The Inspector of Police,
All Women Police Station,
Arupukottai,
Virudhunagar District.
In Crime No.11 of 2021. ...Respondents/Complainants
3.Muthumari ...Respondent/Defacto
Complainant

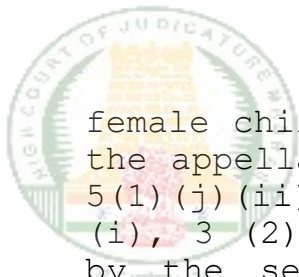
Prayer : This Criminal Appeal is filed under Section 14A (2) of Scheduled Caste/Scheduled Tribes Act, 1989, as amended by Act 1 of 2015, to call for the records in Crl.M.P.No.858 of 2021, on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, 2012, Virudhunagar District at Srivilliputhur, dated 12.10.2021 and to set aside the same and enlarge the appellant on bail in Crime No.11 of 2021, on the file of the second respondent police.

For Appellant : Mr.A.Uthayakumar
For Respondents 1 and 2 : Mr.K.Sanjay Gandhi
Government Advocate

JUDGMENT

This appeal has been filed to set aside the order in Crl.M.P.No.858 of 2021, on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, 2012, Virudhunagar District at Srivilliputhur, dated 12.10.2021 and to grant bail to the appellant.

2. A case against the appellant is that the petitioner by giving a false promise of marriage, deceived the victim child aged about 16 years and committed an aggravated penetrative sexual assault, criminally intimidated her not to divulge the same to the others. The victim child became pregnant and she gave birth to a



female child. A case in Crime No.11 of 2021 was registered against the appellant under Sections 363, 376(3), 506(i) of IPC and Section 5(1)(j)(ii) r/w. Section 6 of POCSO Act, 2012 and Section 3(1)(w)(i), 3(2)(va) of the Scheduled caste and the Scheduled Tribes Act by the second respondent Police. The appellant was arrested on 19.08.2021 and he filed a bail petition in Crl.M.P.No.858 of 2021 before the Sessions Court. That petition was dismissed on 12.10.2021. Against which, the appellant has preferred this appeal.

3. On the side of the appellant, it is stated that there was love affair between the appellant and the victim for a short period, then, the victim had relationship with some other persons and the appellant stopped the relationship with the victim. The occurrence is said to have taken place in the year 2020, but, the F.I.R was registered only on 18.08.2021. There is an inordinate delay in lodging the F.I.R. Originally the F.I.R. was registered under the provision of I.P.C. and POCSO Act. Subsequently, the provision of Scheduled caste and the Scheduled Tribes Act, was added to the charges. The appellant is in custody for the past 91 days and prayed the appeal to be allowed.

4. On the side of the prosecution, it is stated that the victim is only 16 years old and she belonged to SC / ST Community. The appellant by giving a false promise of marriage, forcibly committed a sexual assault. This appellant is having one previous case in Crime No.15 of 2021. The prosecution fairly admitted that the charge sheet was not yet filed and prayed the petition 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 appellant is in custody for the past 91 days and charge sheet was not yet filed. In the above circumstances, the appellant is entitled for bail under Section 167 (2) of Cr.P.C. Hence, 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 Special Court for Exclusive Trial of Cases under POCSO Act, 2012, Virudhunagar District at Srivilliputhur.
- (ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Special Court for Exclusive Trial of Cases under POCSO Act, 2012, Virudhunagar District at Srivilliputhur, may obtain a copy of any valid identity proof to ensure their identity.



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(iii) On release, the appellant should stay in **Madurai District** and to sign before the **South Gate Police Station**, Madurai, daily at 10:30 a.m, until further orders. The appellant should not enter in Virudhunagar 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 (CS I)

// 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 Special Court for Exclusive Trial of Cases
under POCSO Act, 2012,
Virudhunagar District at Srivilliputhur.

2.The Deputy Superintendent of Police,
Aruppukottai Sub Division,
Virudhunagar District.

<https://hcservices.ecourts.gov.in/hcservices/>



3.The Inspector of Police,
All Women Police Station,
Arupukottai, Virudhunagar District.

4.The Superintendent, Central Prison,
Madurai.

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

Copy to

1.The Inspector of Police,
South Gate Police Station,
Madurai.

2.The Section Officer,Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

Crl.A. (MD) No.443 of 2021
17.11.2021

MGJ/(26.11.2021) 4P 8C