



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 30.11.2021

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THE HONOURABLE MRS.JUSTICE R. THARANI

Crl. A. (MD)No.487 of 2021

and

Crl.M.P. (MD)No.10046 of 2021

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Siva Chidambaram

... Appellant/Accused No.1

Vs.

1.The Deputy Superintendent of Police,
Thoothukudi Rural,
Thoothukudi.

2.State through The Sub Inspector of Police,
Thattaparai Police Station,
Thoothukudi District.
Crime No.93 of 2021

... Respondent/Complainant

3.Revathy

... Defacto Complainant

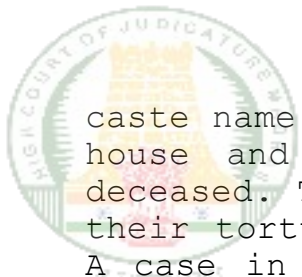
Prayer : This Criminal Appeal is filed under Section 14-A(2) of the Schedule Caste and the Schedule Tribes (Prevention of Atrocities) Amendment Act 1 of 2016, to call for the records relating to the order in Crl.M.P.No.1246 of 2021 dated 16.11.2021 on the file of the learned Special Court for trial of cases registered under SC/ST (POA) Act 1989, Thoothukudi and to set aside the same and to grant bail to the appellant.

For Appellant	: Mr.J.Sivakumar
For Respondents 1 and 2	: Mr.K.Sanjay Gandhi Government Advocate
For 3 rd Respondent	: Mr.Henri Tiphagne

JUDGMENT

This appeal has been filed to set aside the order in Crl.M.P.No.1246 of 2021, dated 16.11.2021, on the file of the learned Sessions Judge, Special Court for trial of cases registered under SC/ST (POA) Act, Thoothukudi.

2.The case against the appellant is that the husband of the defacto complainant borrowed a sum of Rs.3,50,000/- (Rupees Three Lakhs Fifty Thousand only) from the appellant seven years prior to the date of occurrence. He paid interest to the tune of Rs.10,00,000/- (Rupees Ten Lakhs only). On 02.09.2021, the appellant called the deceased to his home and demanded exorbitant interest and threatened the deceased with dire consequences and abused him in filthy language and insulted him by uttering his



caste name. On 13.09.2021, two other persons came to the deceased's house and they demanded interest and threatened to murder the deceased. The deceased borrowed money from other accused and due to their torture, the deceased committed suicide by consuming poison. A case in Crime No.93 of 2021 under Sections 294(b), 352, 506(i) and 306 of IPC and Sections 4 and 9 of Prohibition of Charging Exorbitant Interest Act and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of Schedule Caste and the Schedule Tribes (Prevention of Atrocities) Act was registered against the appellant and others. The appellant has filed a bail petition in Cr.M.P.No.1246 of 2021 before the learned Sessions Judge, Special Court for trial of cases under the SC/ST (POA) Act, Thoothukudi. That petition was dismissed on 16.11.2021. Against the same, the appellant has preferred this Criminal Appeal.

3.On the side of the appellant, it is stated that the allegation is that the deceased borrowed a sum of Rs.3,50,000/- (Rupees Three Lakhs Fifty Thousand only) from the appellant seven years prior to the date of occurrence. The admitted case of the prosecution is that the deceased borrowed various amount from so many other persons including two persons, who threatened to murder him. The appellant is suffering from "Bipolar Affective Disorder" and he was taking treatment in Sneha Mind Care Institute, Tirunelveli, even prior to the date of occurrence. After the arrest of the appellant, the disease got aggravated and he was admitted in Thoothukudi Government Hospital. A writ petition was filed in W.P. (MD)No.20261 of 2021 and the appellant was sent to Tirunelveli Government hospital for better treatment. The facilities available in Sneha Mind Care Institute is better than the facilities available in the Government hospital. Sufficient equipments were not available in the Government hospital. The appellant is in custody for the past 35 days. The treatment before the private hospital is also necessary and prayed the appellant to be released on bail.

4.On the side of the respondents 1 and 2, it is stated that the appellant is having three previous cases. A suicidal note written by the deceased was available wherein the name of the appellant was mentioned. But the prosecution fairly admits that the appellant is undergoing treatment

5.On the side of the third respondent, it is stated that the nature of the disease is that they can both be normal and in a depressed mood. They cannot be named as mentally ill. They will be so intelligent and capable of manipulating. When they are in depression mood, they may be in a suicidal mentality. The appellant is a member of Victory Nellai Rifle Club. He has a rifle and he has not renewed the licence. He might be sent to Nimhans hospital or he may be advised to continue treatment in Madurai Rama Subramanian's Clinic, one of the best in Tamilnadu. It is further stated that the appellant has undergone treatment only up to January 2021 and not



thereafter, till the date of remand.

6. From the records, it is seen that the appellant is undergoing treatment in Sneha Mind Care Institute from 02.07.2019 onwards. Even prior to the date of occurrence, the appellant is undergoing treatment. The prosecution as well as private respondent have admitted that the appellant has undergone treatment in Thoothukudi Government Hospital and now he is undergoing treatment in the Tirunelveli Government Hospital. It is seen that the appellant is having some physiological problem and he is in need of treatment. Only prescriptions are filed on the side of the appellant. The nature of the disease was not clearly mentioned in the documents. Hence, this Court is of the view that the appellant is to be released on bail, subject to the following conditions:

- (i) the appellant is to be released on bail in the custody of his wife or any other close blood relatives, who undertake to take care of him and make sure he does not involve in any offence.
- (ii) the appellant shall execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for trial of cases registered under SC/ST (POA) Act, Thoothukudi.
- (iii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Sessions Judge, Special Court for trial of cases registered under SC/ST (POA) Act, Thoothukudi. may obtain a copy of their valid identity card to ensure their identity.
- (iv) the appellant is to be admitted as 'inpatient' in a proper hospital till he is completely cured. He should be 'in patient' till he is completely cured.
- (v) the appellant is alleged to be in possession of a rifle and the licence was not renewed. The District Collector, Thoothukudi is hereby directed to cancel the licence, if there is any. The District Collector is directed to seize the weapon from the appellant and to keep the weapon in safe custody until further orders.
- (vi) the appellant shall not tamper with the evidence or the witnesses either during investigation or during trial.



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(vii)after the completion of the treatment, the appellant shall appear before the respondent police and before the Court as and when required and the appellant shall cooperate with the investigation.

(viii)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]**.

8.In the result, this Criminal Appeal is allowed and consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (A.D II)

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/ /2021

Sub Assistant Registrar(CS)

Mrn

To

- 1.The Sessions Judge,
Special Court for trial of cases
registered under SC/ST (POA) Act 1989,
Thoothukudi.
- 2.The District Collector,
Thoothukudi.
- 3.The Deputy Superintendent of Police,
Thoothukudi Rural,
Thoothukudi District.
- 4.The Superintendent of Prison,
District Prison, Perurani,
Thoothukudi District.



5.The Sub Inspector of Police,
Thattaparai Police Station,
Thoothukudi District.

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

Crl. A. (MD) No.487 of 2021
30.11.2021

RS (01.12.2021) 5P 7C