



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.A. No.158 of 2022

1.Kesavan
2.Kalimuthu
3.P.Raman
4.Rajathi
5.Ofir Uddin Ali

... Appellants/A-1 to 5

vs.

1. The Deputy Superintendent of Police,
Pollachi,
Coimbatore District. ... Respondent I/ Complainant

2. The State rep. by
The Inspector of Police,
Anaimalai Police Station,
Coimbatore.
(Crime No.29 of 2022) ... Respondent II / Complainant

3.Hariharasuthakar ... Respondents III/ Defacto
Complainant

PRAYER: Criminal Appeal filed is filed under Section 14(A) of Schedule Caste and Schedule Tribe (Prevention of Attrocities) Act, 1989 praying to set aside the order dated 03.02.2022 made in Crl.M.P.No.362 of 2022 passed by the learned Principal District and Session Judge, Coimbatore and to allow the above criminal appeal by enlarging the appellants on bail.

For Petitioner : Mr.N.R.Ilango, Senior Counsel
for Mr.A.S.Aswin Prasanna

For Respondents 1 & 2 : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)

For Respondent-3 : Mr.B.M.Subash
for Mr.Mohan

JUDGMENT

Being dissatisfied with the order dated 03.02.2022 made in Crl.M.P.No.362 of 2022, the appellants, who are arrayed as



Accused 1 to 5 in Crime No.29 of 2022 on the file of the Anaimalai Police Station have preferred this appeal and praying to enlarge them on bail.

2. The case of the prosecution is that the third respondent/defacto complainant was earlier working with the appellants in A-7 Ramasamy's Farm and thereafter he quit his job. While working with the appellants in Major Ramasamy's Farm, he was fell in love with one Ranjitha, who was also working in the Ramasamy's house. After quitting his work during the relevant point of time, i.e. on 06.01.2022 at around 9.00 p.m., the defacto complainant went to Major Ramasamy's Farm in a drunken mood and threatened the appellants to hand over Ranjitha with him, for which, the appellants had refused. Thereafter the appellants had taken him and beaten him thereby causing injuries to him. In continuation, on 07.01.2022, the appellants 1 and 4 had taken the defacto complainant to the Major Ramasamy's Farm and thereafter, he had been there and then left to his uncle's residence. After the occurrence, the defacto complainant was admitted in the Government Hospital and took treatment and ultimately after receipt of the said information, initially a case has been registered against the appellants for the offences under Sections 143, 342, 323, 324 and 506 (i) of I.P.C. in Crime No.29 of 2022. Subsequently, at the time of investigation after recording the statement from the defacto complainant, the respondent police altered the Section of Law as offences punishable under Sections 109, 147, 148, 342, 323, 324, 506(ii) of I.P.C. and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of SC/ST (POA) Act, 1989.

3. The learned counsel for the appellants submitted that the appellants are innocent persons and they have been falsely implicated in this case. He would further submit that the root cause for the entire alleged occurrence is the act committed by the defacto complainant. Further, when at the time the defacto complainant lodged a complaint before the respondent police, he did not say that he belongs to SC/ST community. Further, the appellants 2 to 4 are also belong to the same community and without knowing the same, they were remanded to the judicial custody for the offences punishable under SC/ST Act. It is his further submission that while at the time, the complaint was given before the Superintendent of Police, the defacto complainant admitted the fact that only due to the advise given by the Social Activist, he preferred the complaint before the Superintendent of Police. According to him, the appellants are in the Judicial Custody from 11.01.2022 onwards. Hence, he prays for bail.

4. The learned counsel appearing for the defacto complainant raised objection stating that during the relevant



point of time after knowing the fact that the defacto complainant belongs to SC/ST community, the appellants herein forcibly took and attacked him by using dangerous weapons and caused multiple injuries on his body. Accordingly, he vehemently opposed for grant of bail to these appellants.

5. The learned Government Advocate (Crl. Side) appearing for the respondent police raised objection stating that the investigation is pending.

6. The submissions made by the learned counsel appearing on either side are considered.

7. Admittedly, at the time of registering the case, there is no averment as the appellants have insulted the defacto complainant by using the caste name. It was admitted on either side that only on the instigation of the social activist, the defacto complainant preferred the complaint before the Superintendent of Police and then only the section of Law has been altered. The averments found in the First Information Report would show that at the time of occurrence, the defacto complainant is in the drunken mood and attempted to commit offence. Further, at that time he climbed on the electric post and committed nuisance to the public. Though separate case has been registered against the defacto complainant, only due to the nuisance committed by him everything had happened in the alleged occurrence. As of now, the appellants are in judicial custody from 11.01.2022 onwards. Hence, the question of hampering investigation and tampering witnesses does not arise. Hence, this Court is inclined to grant bail to the appellants subject to following conditions.

8. Accordingly, the appellants are ordered to be released on bail subject to the following conditions;

(a) the appellants shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each, with two sureties, each for a like sum to the satisfaction of the learned Principal District and Sessions Judge, Coimbatore;

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) the appellants are directed to appear before the respondent police daily at 10.00 a.m., until further orders;

(d) the appellants shall not tamper with evidence or witness either during investigation or trial;

(e) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled



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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];

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

With the above directions, this Criminal Appeal is allowed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

rsi

To

1. The Principal District and Sessions Judge,
Coimbatore.
2. The Deputy Superintendent of Police,
Pollachi, Coimbatore District.
3. The Inspector of Police,
Anaimalai Police Station, Coimbatore.
4. The Superintendent,
Central Prison, Coimbatore.
5. The Superintendent,
The Special Prison for Women,
Coimbatore.
6. The Public Prosecutor,
High Court, Madras.

+3cc to Mr.A.S.Aswin Prasanna, Advocate, S.R.No.13707,13607

Crl.A. No.158 of 2022

BS(CO)
CT(02/03/2022)