



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

CRL.A.NO.165 OF 2022

Mariammal,
W/o.Kumar

... Appellant / A-1

versus

1. The State, rep. By
Deputy Superintendent of Police,
Rasipuram Sub-Division,
Namakkal District.

2. The Inspector of Police,
Vennadhur Police Station,
Namakkal District.
(Crime No.748 of 2021)

... Respondents 1 & 2/Complainants

3. Vignesh,
S/o.Loganathan

... 2nd Respondent/Defacto Complainant

Prayer: Criminal Appeal filed under Section 14-A(2) of the SC/ST (POA) Amended Act, 2015, praying to set aside the bail dismissal order dated 07.02.2022 in C.M.P.No.8 of 2022 passed by the learned Sessions Judge, Special Court for SC/ST (POA) Act Cases, Namakkal and enlarge the appellant on bail in Crime No.748 of 2021 on the file of the Inspector of Police, Vennadhur Police Station, Namakkal District.

For Appellant : Mr.B.Vasudevan

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

For Respondent No.3 : No Appearance



J U D G M E N T

Being dissatisfied with the order dated 07.02.2022 made in C.M.P.No.8 of 2022 on the file of the learned Sessions Judge, Special Court for SC/ST (POA) Act Cases, Namakkal, the appellant, who is arrayed as A-1 in Crime No.748 of 2021 on the file of Vennadhur Police Station, has prepared this Criminal Appeal and praying to enlarge her on bail.

2. The case of the prosecution is that the appellant and the de facto complainant had illicit intimacy for a period of 5 years and thereafter, due to wordy quarrel between them, in a drunken mood, the appellant along with other accused scolded him in filthy language by using his caste's name, attacked him and also poured petrol on him. Hence, a case has been registered against the appellant under Sections 294(b), 323, 307 of IPC and Sections 3(1)(s), 3(2)(v), 3(2)(va) of the SC/ST (POA) Amendment Act, 2015.

3. The learned counsel appearing for the appellant would submit that the appellant is an innocent person and she has been falsely implicated in this case. He would further submit that the alleged occurrence had happened without any intention to commit the offence. Further, the appellant is the first time offender and also she is having a permanent residence. She is in judicial custody from 15.12.2021 onwards. Hence, he prays for bail.

4. The learned Government Advocate (Crl. Side) appearing for the respondent police raised objection stating that if the appellant is released on bail, she may try to tamper the witness and hamper the investigation. However, he admits that, as of now, after completing the investigation, Charge Sheet has been filed before the trial Court. In respect to the victim, this Court ordered to issue notice but after receipt of the notice, he has not turned up for representing his case.

5. Considered the submissions made by the learned counsel appearing on either side.

6. The respondent police registered a case as against this appellant for the offences under Sections 294(b), 323, 307 of IPC and Sections 3(1)(s), 3(2)(v), 3(2)(va) of the SC/ST (POA) Amendment Act, 2015. Now, on going through the history of the case projected by the prosecution, it seems that, previous to the occurrence, both the appellant and the de facto complainant lived together as husband and wife for a period of 5 years. Later, the appellant joined with the second accused and avoided to meet the de facto complainant and as a result of



which, the dispute arose between them and afterwards, both the appellant and the second accused after pouring petrol on the body of the de facto complainant, committed this offence. In the said occasion, since investigation has been completed, further custody of the appellant is not necessary.

7. Therefore, taking into consideration of the fact that the appellant is the first time offender and she is in incarceration from 15.12.2021, this Court is inclined to grant bail to the appellant subject to following conditions.

8. Accordingly, the appellant is ordered to be released on bail subject to the following conditions;

(a) the appellant shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for SC/ST (POA) Act Cases, Namakkal;

(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 appellant is directed to appear before the respondent police daily at 10.00 a.m. until further orders;

(d) the appellant 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 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];

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

9. With the above directions, this Criminal Appeal is allowed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

sri



To

1. The Sessions Judge,
Special Court for SC/ST (POA) Act Cases,
Namakkal.

2. The Deputy Superintendent of Police,
Rasipuram Sub-Division,
Namakkal District.

3. The Inspector of Police,
Vennadhur Police Station,
Namakkal District.

4. The Jailer,
Sub-Jail for Women,
Salem.

5. The Public Prosecutor,
High Court, Madras.

Copy To

The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to M/s.B.Vasudevan, Advocate, S.R.No.16890 (14/03/2022)

Crl.A.No.165 of 2022

RSI (CO)
RLP (11/03/2022)