



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:07.04.2022

CORAM

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.A.No.334 of 2022

1. Vijay @ Vijay Adhiraj
 2. Radha
- ...Appellants/Petitioners/Accused

Vs.

1. The Assistant Commissioner of Police,
Ammeperpet Range,
Salem City.
2. The State rep. by
The Inspector of Police,
All Women Police Station,
Ammapet, Salem District.
(Crime No.6 of 2022)

...1 & 2 Respondents/Respondents/Complainants

3. Janani
- ...3rd Respondents/Defacto Complainant

PRAYER: Criminal Appeal filed under Section 14(A) (2) of the SC/ST Act, 1989, to set aside the order made in Crl.M.P.No.756 of 2022 on the file of the learned Special Judge for SC/ST Act cases-cum Principal Session Judge, Salem, dated 23.02.2022 in Crime No.6 of 2022 on the file of the first respondent by allowing the present appeal and enlarge the appellants on bail.

For Appellant : Mr.B.Kumarasamy

For Respondents
For R1 & R2 : Mr.Leonard Arul Joseph Selvam,
Government Advocate(Crl. Side)

For R3 : No appearance



JUDGMENT

Being dissatisfied with the order dated 23.02.2022 made in CrI.M.P.No.756 of 2022 on the file of the learned Special Judge for SC/ST Act cases-cum Principal Session Judge, Salem, the appellants, who are arrayed as Accused 1 & 2 in Crime No.6 of 2022 on the file of the All Women Police Station, Ammapet, Salem, have preferred this appeal and praying to enlarge them on bail.

2. The case of the prosecution is that the second appellant is the mother of the first appellant and the defacto complainant is the wife of the first appellant. Previous to the occurrence, both the first appellant and the defacto complainant were working in Amazon Company, wherein they developed love and as a result of which the first appellant got married the defacto complainant on 30.04.2021. After solemnizing the marriage, both the appellants and the defacto complainant were lived in a single roof, wherein the appellants abused the defacto complainant by using her caste name and also threatened her that they would kill her. Hence the case.

3. The learned counsel for the appellants would submit that the appellants are innocent persons and no way connected with the offence as alleged by the prosecution. He would further submit that the present case has been registered for the family dispute and therefore, question of custodial interrogation does not arise for completing the investigation. He would submit that the appellants are ready to abide any condition. Further more, the appellants are in the Judicial Custody from 10.02.2022 onwards. Hence, he prays for bail by allowing this appeal.

4. The learned Government Advocate (CrI. Side) appearing for the respondent/Police raised objection stating that the investigation is pending. He would further submit that during the relevant point of time, the appellants made cruelty and torture against the defacto complainant. Therefore, if the appellants are released on bail, they would try to tamper the witnesses.

5. Under Section 15(A) of the SC/ST Prevention of Atrocities Act, notice has been served to the defacto complainant. But none appeared for submitting her case.

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

7. The second respondent police registered a case as against the appellants in Crime No.6 of 2022, for the offences punishable under Sections 498(A), 406 of IPC and Section 3(1)



(x), 3(1)(xii) of SC/ST Prevention of Atrocities Act, 1989. The averments found in the First Information Report clearly denote the fact that the alleged occurrence has happened within the family of the defacto complainant and the appellants. If the appellants still continuing the judicial custody the chance of compromise in the family of the defacto complainant may be ended in vain. More than that, the appellants are in judicial custody from 10.02.2022 onwards and therefore in the said circumstances for completing the investigation, further custody of the appellants is not necessary.

8. Taking into consideration the above said aspects, particularly, considering the period of incarceration, this Court is inclined to grant bail to the appellants subject to following conditions.

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

(a) each of the appellants 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 Special Judge for SC/ST Act cases-cum Principal Session Judge, Salem.

(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 report before the second respondent police, daily at 10.30 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 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 abscond, a fresh FIR can be registered under Section 229A IPC.

10. In the result, the order passed by the learned Special Judge for SC/ST Act cases-cum Principal Session Judge, Salem in CrI.M.P.No.756 of 2022 dated 23.02.2022 is set aside and the Criminal Appeal is accordingly allowed.

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

rts

To

- 1.The Special Judge for SC/ST Act cases-cum
Principal Session Judge, Salem
- 2.The Assistant Commissioner of Police,
Ammepet Range, Salem City.
3. The Inspector of Police,
All Women Police Station,
Ammepet, Salem District.
4. The Superintendent,
Central Prison,
Salem.
5. The Public Prosecutor,
High Court, Madras.

Copy to

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

+1cc to Mr.B.Kumarasamy, Advocate, S.R.No.5366

[12/04/2022]

CrI.A.No.334 of 2022

SSD(CO)
KKV/07/04/2022