



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.A.No.298 of 2022

Ashokraj

... Appellant/Accused

vs.

1.State rep by
Superintendent of Police,
Dharmapuri District

2.The Inspector of Police,
All Women Police Station,
Dharmapuri District.
(Crime No.2 of 2022)

3.Vishalakshi ... Respondents/Complainant/Defacto Complainant

PRAYER: Criminal Appeal filed under Section 14-A(2) of the Schedule Castes and Scheduled Tribes (Prevention of Atrocities), Amendment Act, praying to set aside the order passed in Crl.M.P.No.35 of 2022 dated 15.02.2022 on the file of the learned Sessions Judge, Fast Track Mahila Court, Dharmapuri and enlarge the appellant on bail in crime No.2 of 2022 on the file of the second respondent police.

For Appellant : Mr.N.Ponraj

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

For Respondent-3 : No appearance

JUDGMENT

Being dissatisfied with the order dated 15.02.2022 passed in Crl.M.P.No.35 of 2022, on the file of the learned Sessions Judge, Fast Track Mahila Court, Dharmapuri, the appellant who is arrayed as accused in crime No.2 of 2022 on the file of All Women Police Station, Dharmapuri, preferred the appeal praying to set aside the order dated 15.02.2022 and to enlarge him on bail.



2. The case of the prosecution is that the defacto complainant belongs to the Adidraavidar Community and the appellant belongs to the Vanniyar Community. On 07.01.2022 around 11.00 a.m., the daughter of the defacto complainant by name Devi, aged about 14 years, along with her sisters went to a bank in Ariyakulam to get their scholarship amount, but the said Devi alone did not return. On enquiry, it came to know that the said Devi was talking with one person on the Ariyakulam bus stop and went along with him in a bike Hence, a case has been registered against him under Sections 363 and 366 of IPC. It was further alleged that on 09.01.2022, the alleged victim girl was secured and on enquiry it was came to know that her mother used to quarrel with the alleged victim girl insisting her to perform household works and in such circumstances, she got acquaintance with the appellant and eloped with him and had sexual intercourse. Hence, section of law altered as Sections 363, 366 of IPC and Section 5(1) r/w 6 of POCSO Act and Section 3(2)(v) of SC/ST (POA) Amendment Act, 2015.

3. The learned counsel for the appellant would submit that the appellant is an innocent person and he has been falsely implicated in this case. He would further submit that the appellant herein committed this offence due to the compulsion made by the victim girl. In fact, during the relevant point of time, the appellant has not taken any efforts for committing this offence. Instead of considering the same, the respondent police foisted a false case against this appellant. Further, the appellant is in the judicial custody from 14.01.2022 onwards. Hence, he prays for bail.

4. Per contra, the learned Government Advocate (Crl. Side) appearing for the respondent/Police raised objection stating that investigation is pending. However, he admits as of now, portion of investigation has been completed. Further, material objects which are all necessary for proving the alleged offence, are all recovered by the respondent police.

5. Under Section 15A of the SC/ST Act, notice has been sent to the defacto complainant and after receipt of the same, nobody has appeared on behalf of him.

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

7. The respondent police initially registered a case as against the appellant for the offence under Sections 363 and 366 of IPC subsequently altered into Sections 363, 366 of IPC and Section 5(1) r/w 6 of POCSO Act and Section 3(2)(v) of SC/ST Amendment Act, 2015. Now on go through the averments found in



the first information report as well as in the statement given by the victim child, she alone compelled the accused to take away from her residence. As of now, after securing the victim child and the accused, respective statements have been recorded and medical examination has also been completed. Therefore, further custody of the appellant is not necessary for completing the investigation. Moreover, it is reported that the appellant is the first accused.

8. Therefore, taking into consideration of all the above said aspects, particularly considering the period of incarceration, this Court is inclined to grant bail to the appellant subject to certain conditions.

9. 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, Fast Track Mahila Court, Dharmapuri.

(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 shall report before the second respondent police, daily at 10.30 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.



In the result, the order passed by the learned Sessions Judge, Fast Track Mahila Court, Dharmapuri in CrI.M.P.No.35 of 2022 dated 15.02.2022 is set aside and the Criminal Appeal is accordingly allowed.

WEB COPY

Sd/-
Assistant Registrar (CS-CCC)

//True copy//

Sub Assistant Registrar

lok

To

- 1.The learned Sessions Judge,
Fast Track Mahila Court, Dharmapuri
- 2.The Superintendent of Police,
Dharmapuri District
- 3.The Inspector of Police,
All Women Police Station,
Dharmapuri District.
- 4.The District Prison,
Dharmapuri.
- 5.The Public Prosecutor,
High Court, Madras.

Copy To

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

CrI.A.No.298 of 2022

AKS (CO)
GMY (11/04/2022)