



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2022

CORAM

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

CRL.A.NO.318 OF 2022

Chinnadurai

...Appellant/Accused

Vs.

1. The Deputy Superintendent of Police,
Omalar Range,
Salem District.
2. The State rep. by
The Inspector of Police,
Tharamangalam Police Station,
Salem District.
(Crime No.108 of 2022)
3. Mohanprathap ...Respondents/Complainants/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.975 of 2022 on the file of the learned Principal Session Judge, Salem, dated 10.03.2022 in Crime No.108 of 2022 on the file of the second respondent by allowing the present appeal and enlarge the appellant 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 10.03.2022 made in Crl.M.P.No.975 of 2022 on the file of the learned Principal Session Judge, Salem, the appellant, who is arrayed as Accused No.5, in Crime No.108 of 2022 on the file of the Tharamangalam Police Station, Salem, has preferred this appeal and praying to enlarge him on bail.



2. The case of the prosecution is that there was a scuffle between the defacto complainant and his neighbour Sakthi and due to the same they were admitted in the hospital and after taking treatment, they were discharged from the hospital. In continuation, on 15.02.2022 at about 9.30 pm., the appellant and other accused came to the defacto complainant's house and abused him with filthy language by using his caste name. Further they attacked him with hands and legs. When the defacto complainant's mother intervened, the accused Hemalatha pushed down her and kicked her and caused simple injury. Hence the case.

3. The learned counsel for the appellant would submit that the appellant is an innocent person and no way connected with the offence as alleged by the prosecution. He would further submit that the petitioner is the first offender and he is not having any previous bad antecedent. Further more, the appellant is in the Judicial Custody from 17.02.2022 onwards. Hence, he prays for bail by allowing this appeal.

4. The learned Government Advocate (Crl. Side) appearing for the respondent/Police raised objection stating that the investigation is pending. However he fairly admits that a portion of investigation has been completed and he prayed for dismissal of this appeal.

5. Under Section 15(A) of the SC/ST Prevention of Atrocities Act, notice has been served to the defacto complainant and after receipt of the same, none appeared on behalf of the defacto complainant.

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 appellant in Crime No.108 of 2022, for the offences punishable under Sections 147, 148, 294(b), 323, 324 of IPC r/w Section 3(1)(r), 3(1)(s) of SC/ST Prevention of Atrocities Act, 1989. The averments found in the First Information Report disclose the fact that during the relevant point of time, due to the result of wordy quarrel, the appellants and others abused the defacto complainant and also attacked him. As a result of the said incident, the defacto complainant sustained simple injury. As of now, he has been discharged from the hospital after completing treatment. Admittedly, the petitioner is the first offender and he is not having any previous cases. More than that, the appellant is in judicial custody from 17.02.2022 onwards and therefore in the said circumstances for completing the investigation, further custody of the appellant 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 appellant subject to following 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 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 appellant is directed to 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.

10. In the result, the order passed by the learned Principal Session Judge, Salem in CrI.M.P.No.975 of 2022 dated 10.03.2022 is set aside and the Criminal Appeal is accordingly allowed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rts



To

1. The Principal Session Judge, Salem
2. The Deputy Superintendent of Police,
Omalar Range,
Salem District.
3. The Inspector of Police,
Tharamangalam Police Station,
Salem District.
4. The Superintendent,
Central Prison,
Salem.
5. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.B.Kumarasamy, Advocate, S.R.No.5367

[12/04/2022]

Crl.A.No.318 of 2022

NMI (CO)
RLP (08/04/2022)