



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

CRL.A.NOS.335 & 336 OF 2022

Crl.A.No.335 of 2022

1.Marimuthu
2.Mayilsamy
3.Subramaniam
4.Boopathy

...Appellants / A1,4,5 & 7

Vs.

1.The Deputy Commissioner of Police,
Coimbatore

2.The State rep by the Inspector of Police,
Sulthanpettai Police Station,
Coimbatore
Crime No.59 of 2022

3.Lakshmi

...Respondents

PRAYER : Criminal Appeal filed under Section 14-A(2) of the Schedule Castes and the Schedule Tribes (Prevention of Atrocities) Act, 1989 as amended by Act 1 of 2016) praying to set aside the order passed in Crl.M.P.No.1056 of 2022 dated 08.03.2022 on the file of the learned Principal District and Sessions Judge, Coimbatore and enlarge the appellants on bail in Crime No.59 of 2022 on the file of the second respondent police.

For Appellants : Mr.J.Kingsly Solomon

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

For Respondent-3 : No appearance

Crl.A.No.336 of 2022

1.Ganesh @ Ganesan
2.Mohanraj
3.Vignesh @ Manivasagan
4.Balaguru @ Balagurusami



5.Mahendran

6.Thamaraiselvan @ Dhamothirasami

...Appellants / A8 to 10, 12 to 14

vs.

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1.The Deputy Commissioner of Police,
Coimbatore

2.The State rep by the Inspector of Police,
Sulthanpettai Police Station,
Coimbatore
Crime No.59 of 2022

3.Lakshmi

...Respondents

PRAYER: Criminal Appeal filed under Section 14-A(2) of the Schedule Castes and the Schedule Tribes (Prevention of Atrocities) Act, 1989 as amended by Act 1 of 2016) praying to set aside the order passed in Crl.M.P.No.1057 of 2022 dated 08.03.2022 on the file of the learned Principal District and Sessions Judge, Coimbatore and enlarge the appellants on bail in Crime No.59 of 2022 on the file of the second respondent police.

For Appellants : Mr.J.Kingsly Solomon

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

For Respondent-3 : No appearance

COMMON JUDGMENT

Being dissatisfied with the order dated 08.03.2022 made in Crl.M.P.Nos.933, 1056 & 1057 of 2022, on the file of the learned Principal District and Sessions Judge, Coimbatore, the appellants who are all arrayed as accused in Crime No.59 of 2022 on the file of the Sulthanpettai Police Station, have preferred these criminal appeals praying to set aside the order dated 08.03.2022 and to enlarge them on bail.

2. The case of the prosecution is that the defacto complainant is the wife of the deceased. A4 is the milk vendor. During the relevant point of time, the deceased who is the husband of the defacto complainant, while at that time, dashed against a vehicle in inebriated mood, due to which the milk carried by A4 was poured on the road. Thereafter, both of them returned to their respective houses. Later, all the accused joined together and went into the defacto complainant's house and after picking up quarrel with the defacto complainant,



abused the defacto complainant by using filthy language and by referring her caste name. Further, they assaulted the defacto complainant's husband who was sleeping at that time. Further, other accused assaulted the deceased with wooden log. More than that, during the same occurrence, all the accused assaulted the defacto complainant's daughter in law also. Hence, the case.

3. The learned counsel appearing for the appellants would submit that the appellants are innocent persons and they have been falsely implicated in this case. He would further submit that for the same incident, a counter case has been registered based upon the complaint given by one, Marimuthu who is arrayed as accused No.1 in this case. As of now, investigation has been completed and further, the appellants are in judicial custody from 09.02.2022, 10.02.2022, 11.02.2022, 12.02.2022 and 13.02.2022 onwards. Hence, he prays to set aside the impugned order and to release the accused on bail.

4. Notice under Section 15A of the SC/ST Act has been served to the defacto complainant, but none appeared on behalf of her.

5. Opposing to grant bail, the learned Government Advocate (Crl. Side) appearing for the respondent/Police submits that if these type of petitioners are released on bail, they may try to tamper the witness and hamper the investigation. According to him, being the reason that the alleged occurrence had happened due to communal rivalry, the prayer sought for by the appellants cannot be entertained. However he admits that as of now, portion of investigation has been completed.

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

7. The respondent police registered a case for the offence under Sections 147, 148, 294(b), 323, 427, 355, 307 of IPC and Section 4 of TN Prohibition of Harassment of Women Act, 2002 r/w Section 3(1)(r), 3(1)(s), 3(1)(u), 3(2)(va) of SC/ST Amendment Act, 2015 @ Sections 147, 148, 294(b), 323, 427, 355, 302 of IPC and Section 4 of TN Prohibition of Harassment of Women Act, 2002 r/w Section 3(1)(r), 3(1)(s), 3(1)(u), 3(2)(va) of SC/ST Amendment Act, 2015. The appellants are in the judicial custody from 09.02.2022, 10.02.2022, 11.02.2022, 12.02.2022 and 13.02.2022 onwards. As of now, during the time of investigation, eight witnesses have been examined and their statements are also recorded. Further, material objects which are required for proving the prosecution case also been recovered. Admittedly, the appellants are not having any previous cases. Further, it is a case of case in counter and thereby, both the accused as well as the defacto complainant are sufferers in the alleged occurrence. Therefore, taking into consideration of the nature



of offence committed by the appellants, particularly considering the period of incarceration, this Court is inclined to grant bail to the appellants by allowing these criminal appeals.

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 Judicial Magistrate, Sulur.

(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 shall stay at Tiruchirapalli and report before the Inspector of Police, Cantonment Police Station, Trichy, daily at 10.00 a.m. until further orders. The appellants shall not enter into occurrence village without permission of this Court.

(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 themselves 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.

In the result, the order passed by the learned Principal District and Sessions Judge, Coimbatore in CrI.M.P.Nos.1056 & 1057 of 2022 dated 08.03.2022 is set aside and the Criminal Appeals are accordingly allowed.

Sd/-
Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

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To

1.The Principal District and Sessions Judge,
Coimbatore



2.The Judicial Magistrate,
Sulur.

3.The Deputy Commissioner of Police,
Coimbatore

4.The Inspector of Police,
Sulthanpettai Police Station,
Coimbatore

5.The Inspector of Police,
Cantonment Police Station,
Trichy

6.The Superintendent,
Central Prison,
Coimbatore.

7.The Public Prosecutor,
High Court, Madras.

Copy To

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

+2ccs to M/s.J.Kingsly Solomon, Advocate Sr.Nos.24430, 24431

Cr1.A.Nos.335 & 336 of 2022

NRL (CO)
RVM(08/04/2022)