



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.A.No.367 of 2022

G.Manivannan

...Appellant/accused

vs.

1.The Deputy Superintendent of Police,
Salem District,
Salem

...Respondent/Complainant

2.State Rep. by
Inspector of Police,
Pallapatty Police Station,
Salem District

3.A.Mani

...Respondents/Defacto/Complainant

PRAYER: Criminal Appeal filed under Section 14-A(2) of the Schedule Castes and the Schedule Tribes (Prevention of Atrocities) Act, 1989 praying to set aside the order passed in Crl.M.P.No.988 of 2022 in SC.No.53 of 2019 dated 14.03.2022 on the file of the learned Principal District and Sessions Judge, Salem and enlarge the appellant on bail.

For Appellant

: Mr.J.Sudhakaran

For Respondents 1 & 2

: Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)

For Respondent-3

: A.Mani
(produced in court)

JUDGMENT

Being dissatisfied with the order dated 14.03.2022 made in CMP.No.988 of 2022 in SC.No.53 of 2019 on the file of the Principal Sessions Court, Salem, the appellant who is an accused in the above sessions case, preferred this appeal praying to set aside the order dated 14.03.2022 and to enlarge him on bail.



2. The case of the prosecution is that the appellant is arrayed as accused No.26 in crime No.12 of 2019 under Sections 147, 341, 427, 447, 323, 506(ii) of IPC r/w Section 3(1) (x) of SC/ST Act r/w Section 3 (1) of TNPPD Act on the file of the respondent police. Previously, after registering the F.I.R., the appellant was not secured by the respondent police and on the other hand, the respondent police completed the investigation and filed final report. In the said occasion, being the reason that the present appellant has not appeared, the case against the other accused splitted up and assigned with SC.No.60 of 2012. After elaborate trial, the said case has been disposed after acquitting all the accused. Only in the said occasion, NBW dated 28.07.2011 issued against the appellant was recalled on 17.09.2019. Even after the same, the appellant has not appeared before the trial court and therefore, NBW was issued against the appellant on 05.04.2021 as a second time and later, the same was executed on 28.07.2021. Thereafter, the appellant filed an application before the trial court praying to enlarge him on bail and the same was dismissed by the learned Principal Sessions Judge, Salem dated 14.03.2022, against which the appellant / accused preferred the present appeal before this Court.

3. The learned counsel appearing for the appellant would contend that the appellant is an innocent person and he has been falsely implicated in this case. He would further submit that due to the poverty and health condition, the appellant is not able to attend the court on 05.04.2021 and therefore, the non appearance of the appellant is neither wilful nor wanton and the appellant is in the judicial custody from 04.03.2022 onwards and accordingly, he prayed to allow this appeal.

4. Per contra, the learned Government Advocate (crl.side) appearing for the respondent police 1 and 2 raised objection stating that the petition mentioned case has been registered in the year 2009 and thereafter due to the non appearance of the appellant, the same has been pending on the file of the learned Principal District Judge, Salem till date. If the appellant regularly appeared before the trial court, the said case registered against the appellant would have disposed in the year 2012 itself along with the other accused. Therefore, the attitude committed by the appellant create a much confuse over the process of disposal. In otherwise, if the appellant is released on bail, he may try to abscond, also he will not appear before the trial court.

5. In this occasion, being the reason that the defacto complainant in this case who is confined in Coimbatore Central



Prison in connection with some other case, by way of complying Section 15A of the SC/ST Act, this Court directed the Superintendent of Police, Coimbatore to produce the defacto complainant before this Court and on appearance, the defacto complainant made a submission before this Court that he is not having any objection to allow this appeal.

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

7. Though the defacto complainant is not having any objection in allowing this appeal, considering the fact that the petition mentioned case has been pending on the file for the past twelve years, this Court is hesitated in passing the positive order.

8. Of course the appellant is in the judicial custody for the past 55 days, on go through the background of the case, previously, NBW issued against him was recalled by the learned Principal Sessions Judge, Salem after lapse of eight years. Even after giving such opportunity, the appellant has not appeared and only therefore, NBW was issued as a second time and now he is confined in the prison. Though the learned counsel appearing for the appellant would submit that his health condition is very poor, in order to substantiate the same, he has not filed any bonafide document to show that the appellant is having some ill health. Therefore, this is not a fit case for allowing the appeal. However, considering the facts and circumstances of the case, this Court decides that some direction would be necessary for disposing the petition mentioned sessions case with appropriate period.

9. Accordingly, the learned Principal District and Sessions Judge, Salem is directed to dispose the SC.No.53 of 2019 within a period of three months from the date of receipt of copy of this order.

10. With the above direction, this criminal appeal is dismissed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Principal District and Sessions Judge,
Salem

2.The Deputy Superintendent of Police,
Salem District,
Salem

3.The Inspector of Police,
Pallapatty Police Station,
Salem District

4.The Superintendent,
Central Prison,
Salem.

5.The Public Prosecutor,
High Court,
Madras.

+1cc to Mr.J.Sudhakaran, Advocate, S.R.No.31127 [20/06/2022]

Crl.A.No.367 of 2022

RK(CO)
RN(05/05/2022)