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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.A.No.395 of 2022

P.Senthil @ Senthilkumar

... Appellant/A 11

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/ Respondents

Respondent/Defacto Complainant

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.933 of 2022 dated 08.03.2022 on the file of the learned Principal District and Sessions Judge, Coimbatore and enlarge the appellant on bail in Crime No.59 of 2022 on the file of the second respondent police.

For Appellant : Mr.J.Kingsly Solomon

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

For Respondent-3 : Mr.B.Mohan

JUDGMENT

Being dissatisfied with the order dated 08.03.2022 made in Crl.M.P.No.933 of 2022, on the file of the learned Principal District and Sessions Judge, Coimbatore, the appellant who is arrayed as accused No.11 in Crime No.59 of 2022 on the file of the Sulthanpettai Police Station, has preferred this criminal appeal praying to set aside the order dated 08.03.2022 and to enlarge him 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, 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 including the appellant 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 appellant would submit that the appellant is an innocent person and he has 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 appellant is in judicial custody from 12.02.2022 onwards. Hence, he prays to set aside the impugned order and to release the accused on bail.

4. 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.

5. The learned counsel appearing for the third respondent, reiterating the contentions of the learned Government Advocate, also raised objection to allow this criminal appeal.

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 appellant is in the judicial custody from 12.02.2022 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. 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 appellant, particularly considering the period of incarceration and also considering that some of the co-accused were already granted bail, this Court is inclined to grant bail to the appellant by allowing this criminal appeal.

8. 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 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 appellant 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 appellant shall not enter into occurrence village without permission of this Court.

(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 Principal District and Sessions Judge, Coimbatore in CrI.M.P.No.933 of 2022 dated 08.03.2022 is set aside and the Criminal Appeal is accordingly allowed.

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Sd/-
Assistant Registrar(CS VII)

//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.

+1 cc to Mr.J.Kingsly Solomon, Advocate Sr.NO. 26209

CrI.A.No.395 of 2022

SRA(CO)

A.SK(20/04/2022)