



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2022

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRIMINAL APPEAL NO.675 OF 2021

Raman

...Appellant

..Vs..

1.The Deputy Superintendent of Police,
Thiruvannamalai (Rural Sub Division),
Thiruvannamalai District

2.State by,
The Inspector of Police,
All Women Police Station,
Thiruvannamalai,
Thiruvannamalai District.
Crime No.29/2021.

3.Suganya

...Respondents

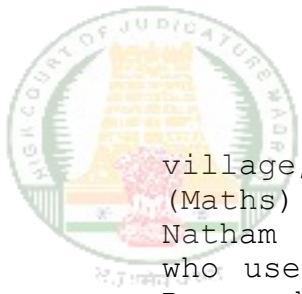
PRAYER : Criminal Appeal filed under Section 14A(2) of Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act,1989, to allow the Criminal Appeal and set aside the order passed by the Special Court for Trial of Cases Under SC/ST (POA) Act, Thiruvannamalai in CrI.M.P.No.986/2021 dated 03.12.2021 and enlarge the Appellant on bail in Crime No.29 of 2021 on the file of the Inspector of Police, All Women Police Station, Thiruvannamalai, Thiruvannamalai District.

For Appellant	:	Mr.S.Silambuselvan
For Respondents	:	Mr.S.Sugendran for R1 and R2 Government Advocate (CrI. Side) R3-No appearance.

O R D E R

This Criminal appeal has been filed against the dismissal of the bail application in CrI.M.P.No.986 of 2021 by order dated 03.12.2021 passed by the Special Court for the cases under SC/ST (POA) Act, Tiruvannamalai.

2.The case of the prosecution is that the defacto complainant Suganya, aged 25 years is the resident of Kottaiyur



village, Tiruvannamalai District. She had completed B.Sc. (Maths) and she was working at Sathish Pawn shop at Kungili Natham village and she got acquainted with the accused Raman, who used to come to that shop. During December 2018, the said Raman had informed her that he was in love with her and initially, she had refused it. Since he had persisted her to love him, she also loved him. She further alleged that when the said Raman called her to his family deity, she had accompanied him. In the temple, the said Raman had promised her that he would definitely marry her. She had immediately asked him saying that he belongs to kurumba community and she belongs to irular community, whether his family members would accept her for the marriage. At that time, the said Raman had promised her in front of the deity stating that he would marry her. While so, on 20.09.2020, Raman had invited her to discuss about the future and called her to come to the hut near her house at 09.00 p.m. and she had gone there. He had reaffirmed his promise and thereafter, had intercourse with her repeatedly in the same night. Thereafter on 27.09.2020, in the presence of her relatives, he had confirmed his promise that he would marry her and subsequently, he had intercourse with her on several occasions. Thereafter, on 06.04.2021, he had taken her to hut near her house and had intercourse with her, due to which, she got pregnant during the month of May. When the defacto complainant had informed about her pregnancy, he told that only if she aborted her pregnancy, he would marry her otherwise he would marry his elder sister's daughter. Thereafter, she had taken tablets and her pregnancy was aborted. Subsequently, on 10.09.2021, the defacto complainant was invited to attend the wedding reception of Raman's younger brother, during that time, she came to know that he was going to marry his elder sister's daughter and when she enquired about it, Raman informed that since both of them belongs to different community, he would marry her elder sister's daughter. Based on the complaint of the defacto complainant, a case in Crime No.29 of 2021 was registered by the respondent against the appellant for the offences under sections 417 and 312 IPC and under Sections 3(1) (w)(i), 3(2)(v) of SC/ST (POA) Amendment Act 2015 on 25.10.2021. The appellant was arrested on 26.10.2021 and remanded to the judicial custody on the same day. Thereafter, the appellant filed CrI.M.P.No.986 of 2021 on the file of Sessions Judge (Special Court for trial of cases under SC/ST (POA) Act), Tiruvannamalai and the trial Court taking into consideration the gravity of offence and also taking into consideration that it is offence against women and society, had dismissed the same against which the present appeal has been filed.

3.Learned counsel for the appellant would submit that it is a case of love affair and consensual relationship between the parties. The appellant and the defacto complainant were having



relationship from the year 2018 and both of them were having good relationship. Since it was objected to by the parents of the appellant, they were unable to get married. He would further submit that the averments in the complaint do not make out case for rape. He would further submit that the appellant was arrested on 26.10.2021 and he is in custody for more than 89 days and that major part of the investigation is also over. He would further submit the appellant is prepared to abide by any stringent condition imposed by this Court and he would seek for bail.

4.Mr.S.Sugendran, learned Government Advocate appearing for the respondents 1 and 2 would submit that the appellant belongs to backward caste community and the victim belongs to scheduled caste community. The appellant induced her and promised to marry her and had sexual intercourse with her on several occasions. The victim got pregnant and thereafter on the compulsion of the appellant, she had committed abortion and thereafter, the appellant had refused to marry her. He would further submit that the investigation is almost over.

5.Though notice was served on the defacto complainant and her name printed in the list, there is no representation for the third respondent.

6. Heard the learned counsels and perused the materials on record.

7. Even as per the complaint, the appellant and the defacto complainant \ victim were having relationship from the year 2018. Subsequently, it is alleged that on the insistence of the appellant, the victim girl aborted her pregnancy during the month of May 2021. Subsequently the complaint has been given on 25.10.2021. Further, the appellant is in custody from 26.10.2021 and that the investigation is also over. Taking into consideration of the facts and the period of incarceration, this court is inclined to allow the appeal. Accordingly, the criminal appeal is allowed. The order passed in Crl.M.P No.986 of 2021 dated 03.12.2021 is set aside.

8.In view of the above, this Court is inclined to grant bail to the appellant/accused on the following conditions:

(a) Accordingly, the appellant is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties, each for a like sum to the satisfaction of the learned District Sessions Judge, (Special Court for trial of Cases under SC&ST (POA) Act), Tiruvannamalai and on further conditions that:



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(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 on his release from prison shall report before the respondent police daily at 10.30a.m. until further orders. The appellant shall not leave the jurisdictional limits.

(d) the appellant shall not commit any offences of similar nature;

(e) the appellant shall not abscond during investigation or trial;

(f) the appellant shall not tamper with evidence or witness during investigation or trial;

(g) 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 himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560];

(h) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

Sd/-
Assistant Registrar(CS-VI)

// True Copy //

Sub Assistant Registrar

vri/shk

To

- 1.The District Sessions Judge,
Special Court for Trial of Cases Under SC/ST (POA) Act,
Thiruvannamalai.
- 2.The Deputy Superintendent of Police,
Thiruvannamalai (Rural Sub Division),
Thiruvannamalai District



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3.The Inspector of Police,
All Women Police Station,
Thiruvannamalai,
Thiruvannamalai District.
Crime No.29/2021.

4.The Public Prosecutor (Crl side),
High Court, Madras.

5.The Superintendent,
Central Prison,
Vellore.

+1cc to S.Silambuselvan, Advocate SR.No.3508

Crl.A.No.675 of 2021

JP(CO)
RVM(20/01/2022)