



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2022

CORAM:

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

Criminal Appeal No.699 of 2021

Sakthi

... Appellant

..Vs..

1. State rep by,
The Deputy Superintendent of Police,
Cuddalore,
Cuddalore District.

2. The Inspector of Police,
Thiripathiripuliyur Police Station,
Cuddalore District.
(Cr.No.825 of 2021)

3. Savithri

... Respondents

PRAYER: Criminal Appeal filed under Section 14A of Scheduled Castes and the Scheduled Tribes Amendment Act, 2015, to call for the records and set aside the order passed by the Special Court for SC/ST (POA) Act, Cuddalore in CrI.M.P.No.981 of 2021 dated 04.12.2021 and enlarge the appellant/petitioner is on bail in connection with the Cr.No.825 of 2021 pending investigation on the file of the respondent police.

For Appellant : Mr.K.Gandhi Kumar

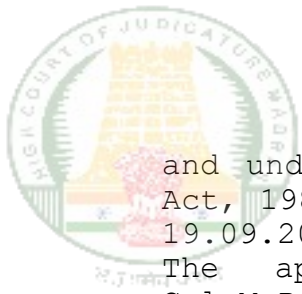
For Respondents : Mr.S.Sugendran for R1 and R2
Government Advocate (CrI. Side)
R3-No appearance.



O R D E R

This Criminal appeal has been filed against the dismissal of the bail application in Crl.M.P.No.981 of 2021 by order dated 04.12.2021 passed by the Special Court for SC/ST (POA) Act, Cuddalore.

2.The case of the prosecution as per the defacto complainant Savithri is that she belongs to the Scheduled Caste community and she was married to one John @ Shajahan and she is living as housewife and she got two younger sisters viz., Rajalakshmi and Gandhimathi. The youngest sister Gandhimathi was given marriage to one Krishnan one year ago and they were living in the same village. While so, on 16.02.2021, her brother-in-law Krishnan along with his friends had committed murder of one Veera and when he attempted to escape, the police had taken action due to which, he died on the next day. At that time, her sister Gandhimathi was three months pregnant and she was under the care and custody of her Mother-in-law Lakshmi and that three months ago, she had delivered a male child. Prior to the marriage of her sister Gandhimathi with Krishnan, her sister had illicit intimacy with one Aravind (A1). After the death of Krishnan, while her youngest sister Gandhimathi was alone, the said Aravind (A1) had frequently visited her sister and that the defacto complainant and her sister's mother-in-law had advised her sister Gandhimathi and reprimanded Aravind not to come to the house of her sister. The said Aravind had openly declared that if Gandhimathi is not for him, he would murder her. while so on 18.09.2021, the defacto complainant along with her husband had gone to visit her sister's child. At that time, their relative one Arusamy @ Arumugam called her sister to take him to a hospital saying that he got injured while riding in a two wheeler. Her sister Gandhimathi against the advise of the defacto complainant and her husband, had went along with the said Arumugam in a two wheeler to the hospital. The defacto complainant and her husband had followed them by running behind the vehicle. At that time, around 08.20 p.m., while the said Arumugam along with her sister Gandhimathi went to the hospital, the said Aravind (A1) along with his friends Sakthi, Madhan and Arumugam had waylaid them and at that time, the said Arumugam had informed them that he had brought her sister Gandhimathi as per their plan and stopped the vehicle and surrounded them and indiscriminately cut the deceased with machete and thereafter escaped from the scene of occurrence in a two wheeler. They had taken her sister to the Cuddalore Government hospital and from there, they were referred to Puducherry Jipmer hospital where they were informed that her sister Gandhimathi was brought dead. Based on the complaint given on 19.09.2021 at 02.00 hours, the respondent had registered a case in Crime No.825 of 2021 for the offences under Sections 120B, 294(b), 153, 505(1)(b), 302 I.P.C.



and under section 3(2)(v) of SC/ST (Prevention of Atrocities) Act, 1989. The appellant and the other accused were arrested on 19.09.2021 and remanded to the judicial custody on the same day. The appellant had filed an application for bail in CrI.M.P.No.981 of 2021 on the file of the Special Court for SC/ST (POA) Act, Cuddalore and the learned Judge by order dated 04.12.2021, had dismissed the application against which the present appeal has been filed.

3.Learned counsel for the appellant would submit that the appellant is arrayed as A2 in this case. He has been falsely implicated in this case, since the appellant is friend of the first accused. It is the case of the defacto complainant that the first accused Aravind was having illicit affair with the deceased and if it is so, there is no reason for the first accused to have joined with the other accused and committed murder of the deceased. He would further submit that it is the case of the defacto complainant that the deceased was having illicit affair with the first accused even prior to her marriage with one Krishnan. Admittedly, it is not a case where the murder is alleged to have been committed on account of the parties belonging to different communities or that the victim was done to death on account of the deceased victim belonging to a schedule caste community. Learned counsel would further submit that even as per the complaint, the allegation against the appellant is that he had inflicted injuries on the right hand of the victim. He is in custody from 19.09.2021 for the past 124 days. He would further submit that the investigation has been completed and the final report has also been filed before the Special Court. He would further submit that the first accused in this case has been detained under Act 14 and that the appellant has no other cases against him and that there is no purpose in keeping the appellant in the judicial custody.

4.Mr.S.Sugendran, learned Government Advocate (crl side) appearing for the respondents 1 and 2 would submit that the first accused one Aravind had illicit intimacy with the deceased Gandhimathi, who is a widow. Her husband died within few months of marriage and that she had delivered a child. The first accused in this case Aravind who is alleged to have illicit intimacy with the deceased prior to her marriage with one Krishnan, after the death of the said Krishnan, had gone to the house of the deceased and disturbed her. This was objected to by the defacto complainant and mother in law of the deceased. Thereby, the first accused had grudges against the deceased and he along with the other accused had joined together and while the deceased was going to the hospital along with one Arumugam, they were waylaid by the other accused. The said Arumugam informed the other accused that he had cunningly brought the deceased as per their plan and had stopped the vehicle and



thereafter, the other accused joined together and had assaulted the deceased indiscriminately with machete. The defacto complainant had taken the victim to the Government Hospital, Cuddalore and from there, she was taken to Puducherry Jipmer Hospital for further treatment where she was declared brought dead. He would further submit that at the time of occurrence, the accused had abused the deceased calling her by caste name and thereby the provisions under the SC/ST Prevention of Atrocities Act have been invoked in this case.

5. Though notice was served on the third respondent 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. It is the case of the prosecution that the first accused in this case was having illicit affair with the deceased and since it was objected to by the relatives of the deceased, the first accused had vengeance against the deceased and he had stated that if the deceased is not for him, she would not have been for anybody else and would be murdered by him and thereby, he has joined with the other accused and committed murder of the victim. As far as the allegation against the appellant is that he had inflicted injuries with machete on the right hand of the deceased. Further in this case, the investigation has been over and the final report has been filed before the concerned court. The main accused (A1) has been detained under Act 14. This Court is of the opinion that the bail can be granted to the appellant.

8. 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 CrI.M.P No.981 of 2021 dated 04.12.2021 is set aside.

9. 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.25,000/- (Rupees Twenty Five Thousand only), with two sureties, each for a like sum to the satisfaction of the learned Special Court for SC/ST (POA) Act, Cuddalore and on further conditions that:

(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;



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(c) the appellant on his release from prison shall report before the Special Court for SC/ST (POA) Act Cuddalore 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 appellant 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-VIII)

//True Copy//

Sub Assistant Registrar

vri/shk

To

- 1.Special Court for SC/ST (POA) Act,
Cuddalore
- 2.The Deputy Superintendent of Police,
Cuddalore,
Cuddalore District.
- 3.The Superintendent of Prisons,
Central Prison,
Cuddalore.



4.The Inspector of Police,
Thiripathiripuliyur Police Station,
Cuddalore District.
(Cr.No.825 of 2021)

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

+1cc to Mr.K.Gandhi Kumar, Advocate SR. No.1000

Crl. A. No.699 of 2021

JP II (CO)
PR (21/01/2022)