



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.04.2022

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.A. (MD) .No.207 of 2022

WEB COPY

P.Gopi @ Gopinath

... Appellant/Petitioner/Accused No.7

Vs.

1.The State,

Represented by,

The Assistant Commissioner of Police,

Tallakulam Range,

Koodalpudur Police Station,

Madurai City,

Madurai District.

... Respondent/Respondent/Complainant

2.Arumugam

... 2nd Respondent/Respondent/
Defacto Complainant

PRAYER : Criminal Original Petition filed under Section 14(A) (2) of the Schedule Castes and Tribes Prevention of Atrocities Act, 1989 and Amended by Act 1 of 2016, to set aside the order of the learned III Additional District and Sessions Judge (PCR), Madurai in Crl.M.P.No.216 of 2022 dated 23.02.2022 and enlarge the appellant on bail in connection with Spl.S.C.No.173 of 2021 on the file of the III Additional District and Sessions Judge (PCR), Madurai in Crime No.212 of 2021 on the file of the first respondent police forthwith.

For Appellant

: Mr.J.Sankara Pandian

For R - 1

: Ms.M.Aasha

Government Advocate (crl.side)

For R - 2

: No appearance

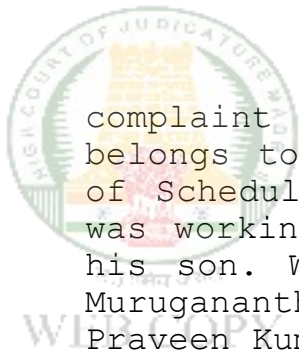
JUDGMENT

This Criminal Appeal has been filed to set aside the order of the learned III Additional District and Sessions Judge (PCR), Madurai in Crl.M.P.No.216 of 2022 dated 23.02.2022 and enlarge the appellant on bail in connection with Spl.S.C.No.173 of 2021 on the file of the III Additional District and Sessions Judge (PCR), Madurai in Crime No.212 of 2021 on the file of the first respondent police forthwith.

2.There are totally 10 accused, in which, the appellant is arraigned as A.7.

3.The case of the prosecution is that on 11.04.2021 at about 12.15 hours, the second respondent/defacto complainant lodged a

<https://hcservices.ecourts.gov.in/hcservices/>

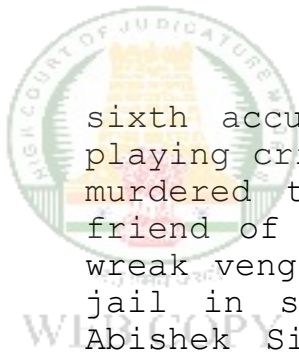


complaint before D3 Koodal Pudur Police Station stating that he belongs to Hindu Arunthathiyar Community coming under the category of Scheduled Caste. His son Praveen Kumar, after completing H.Sc, was working in a fish shop at Arapalayam. One Jeeva was friend of his son. While so, there was quarrel arose between Jeeva and one Muruganantham and the said Muruganantham was also in enmity with Praveen Kumar. Few days ago, Muruganantham compromised with his son. Four days prior to the incident, he went along with his friends and he did not return to house for 3 days and returned to his house only on 10.04.2021 morning. Hence, he warned his son Praveen Kumar to stay in the house itself. On 11.04.2021 at about 10.00 hours a phone call was received. Immediately, he went out of his house. At that time, Muruganantham @ Anandth, Vettaian @ Ayyankalai, Kozhi @ Boominathan, Ajith @ Quarter, Raja, Suryaprakash @ Kallu and few others, who were standing outside the house of the defacto complainant taken his son Praveen Kumar along with them. Thereafter, at about 11.00 hours one Ragupathy called his wife over phone and informed that her son Praveen Kumar found dead with various cut injuries near Karisalkulam channel. Immediately, he rushed there and found that his son Praveen Kumar was murdered.

4. Based on the above complaint F.I.R has been registered in Crime No.212 of 2021 for the offence under Sections 147, 149 and 302 of I.P.C against Muruganantham @ Anandth, Ayyankalai (Vettaian), Boominathan (Kozhi), Ajith (Quarter), Raja, Suryaprakash (Kallu) and others by Koodal Pudur Police Station. During the course of preliminary investigation, the witnesses stated that the deceased belong to Scheduled Caste Community and the accused are belonging to various Communities and the accused have committed communal atrocities, the Inspector of Police, Koodal Pudur altered the Sections of Crime No.212 of 2021 from 147, 149 and 302 of I.P.C to 147, 149 and 302 of I.P.C and Section 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST (POA) Act and sent a report to the Deputy Commissioner of Police, Madurai City on 12.04.2021 in order to appoint a competent authority to investigate the case. As such, the first respondent has been appointed as Investigating Officer.

5. The learned counsel appearing for the appellant further submitted that the appellant surrendered before the learned District Munsif cum Judicial Magistrate, Peraiyur on 22.07.2021. Thereafter, he was taken to police custody from 02.08.2021 to 04.08.2021 and his confession statement was recorded before the Village Administrative Officer on 03.08.2021. After completion of investigation, the first respondent filed a final report and the same has been taken cognizance in Spl.S.c.No.173 of 2021 on the file of the III Additional District and Sessions Court (PCR), Madurai and the case is now posted for issuance of copies on 10.05.2022.

6. The learned Government Advocate (Criminal Side) appearing for the first respondent would submit that on the confession of other
<https://hcservices.go.tn/hcservices/> weapons and other material objects were recovered. The



sixth accused attacked one Abishek Singh in the year 2018 while playing cricket. In order to wreak vengeance, the said Abishek Singh murdered the brother of A.6. The appellant herein is the close friend of A.6 and also brother-in-law. Therefore, they decided to wreak vengeance. While being so, the fifth accused while he was in jail in some other case, his movement was watched by the said Abishek Singh in jail and also the deceased, who is friend of Abishek Singh watched his movement after came out on bail. The sixth accused and the appellant herein along with other accused persons have conspired together to murder the deceased.

7. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent and perused the materials available on record.

8. On a perusal of charge-sheet revealed that the appellant conspired with A.6 and murdered the deceased along with A.1 to A.5. However, the Court below dismissed the bail petition on the ground that so far the petitioner involved in eight cases and all the cases are grave in nature. A.2 to A.4 were released on bail on default clause under Section 167(2) of Cr.P.C. Insofar as A.6 is concerned, who also stand in the same footing of the appellant herein, he was also granted bail.

9. Considering the above facts and circumstances of the case and the period of incarceration by the appellant from the date of his surrender namely 22.07.2021, this Court is inclined to allow the Criminal Appeal by setting aside the order, dated 23.02.2022 made in Cr.M.P.No.216 of 2022 on the file of the learned III Additional District and Sessions Judge (PCR), Madurai.

10. Accordingly, the Criminal Appeal is allowed and the order, 23.02.2022 made in Cr.M.P.No.216 of 2022 on the file of the learned III Additional District and Sessions Judge (PCR), Madurai, is set aside. The appellant is ordered to be released on bail on his executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two blood sureties, each for a like sum to the satisfaction of the learned III Additional District and Sessions Judge (PCR), Madurai and on further condition that:

[a] the appellant shall appear before the trial Court in Spl.S.C.No.173 of 2021 on the file of the III Additional District and Sessions Judge (PCR), Madurai twice at 10.30 a.m and 02.30 p.m until further orders;

[b] the appellant shall not tamper with evidence or witness either during investigation or trial;

[c] the appellant shall not abscond either during investigation or trial;



[d] On breach of any of the aforesaid conditions, the 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 Trial Court itself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

06/04/2022

Sub Assistant Registrar (CS-II)

ps

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The III Additional District and Sessions Judge (PCR),
Madurai.
- 2.The Assistant Commissioner of Police,
Tallakulam Range,
Koodalpudur Police Station,
Madurai City,
Madurai District.
- 3.The Superintendent,
Central Prison,
Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CRL.A. (MD) .No.207 of 2022
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