



Crl. A.(MD)No.427 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 27.07.2022

Pronounced on : 29.07.2022

CORAM

THE HONOURABLE MR. JUSTICE K.MURALI SHANKAR

Crl. A.(MD)No.427 of 2022

Nambi

... Appellant/Petitioner/Accused

Vs.

1.The Deputy Superintendent of Police,
Srivaikundam Sub-Division,
Srivaikundam Police Station,
Crime No.160 of 2022.

... 1st Respondent/Respondent/Complainant

2.Maliga

...2nd Respondent/De-facto Complainant

Prayer : This Criminal Appeal is filed under Section 14(A)(2) of the Schedule Caste and the Schedule Tribes (Prevention of Atrocities) Amendment Act, to call for the records relating to the Crl.M.P.No.1118 of 2022 dated 28.06.2022 on the file of the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi and set aside the same and grant bail to the appellant.



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For Appellant

: Mr.G.Thalaimutharasu

For R1

: Mr.B.Nambi Selvan
Additional Public Prosecutor

For R2

: Mr.S.T.Sasidharan Tamilkani
Legal Aid Counsel

JUDGMENT

This appeal has been filed to set aside the order passed in Crl.M.P.No.1118 of 2022 dated 28.06.2022, on the file of the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi.

2.The case of the prosecution is that on 15.07.2019, the second respondent received a sum of Rs.2,50,000/- from the appellant as hand loan and executed the mortgage deed in favour of the appellant. Subsequently, she paid interest at 4% in every month. Apart from that, she paid Rs.1,00,000/- to him and she paid the interest amount to the appellant for the remaining amount. In these circumstances, she received summons from the Sub-Court, Tiruchendur in O.S.No.15 of 2022 for execution of sale deed to one Subbiah for her mortgage property and when the same was questioned by the second respondent, the appellant abused the second respondent/ de-facto complainant in filthy language and threatened her with dire consequences. Therefore, the second respondent lodged a complaint and on that



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basis, FIR came be registered against the appellant in Cr.No.160 of 2022 for the offences under Sections 294(b), 323 and 506(2) of IPC, Section 4 of TN Prohibition of Harassment of Women Act, 2002 and Sections 3 and 4 of TN Prohibition of Charging Exorbitant Interest Act, 2003.

3.When the matter was taken up for hearing on 20.07.2022, the second respondent/de-facto complainant was present in person before this Court and stated that she is not having necessary means to engage a counsel. Hence, this Court directed the Registry to take steps for appointing a Legal Aid Counsel and accordingly, Mr.S.T.Sasidharan Tamilkani, Panel Advocate has been appointed as Legal Aid Counsel for the second respondent/de-facto complainant.

4.Originally, the case was registered for the offence under Sections 294(b), 323, 506(2) IPC, Section 4 of TN Prohibition of Harassment of Women Act, 2002 and Sections 3 and 4 of TN Prohibition of Charging Exorbitant Interest Act, 2003 and that after initial investigation, the case was altered for the offences under Sections 294(b), 323, 506(i) IPC, Sections 3 and 4 of TN Prohibition of Charging Exorbitant Interest Act, 2003, Section 4 of TNPHW Act, 2002 and Section 3(1)(r), 3(1)(s) and 3(2)(va) of SC/ST (PoA) Act, 2005.



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5.The learned counsel for the second respondent would submit that the second respondent is still having life threat and that she is having serious objections to release the appellant on bail.

6.The learned Additional Public Prosecutor would submit that the appellant is having five previous cases, in which, four cases were already disposed of and one case is pending.

7.The learned counsel for the appellant would submit that when the appellant was in judicial custody in connection with the case on hand, another FIR came to be registered in Crime No.177 of 2022 under Section 506(i) IPC, Section 4 of TNPHW Act and Sections 3 and 4 of TN Prohibition of Charging Exorbitant Interest Act and that when the appellant was arrested for the present case, he was not having any previous case for similar offence.

8.As rightly contended by the learned counsel for the appellant, the previous case alleged by the prosecution was registered on 23.06.2022 in Crime No.177 of 2022 and that the appellant was in judicial custody in connection with the case on hand.



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9.Considering the above facts and circumstances and also the facts that the appellant is in judicial custody from 09.06.2022, that injured was already discharged from the hospital and that the appellant is having one other case pending, which was registered subsequent to the present case, this Court is inclined to allow the Criminal Appeal by setting aside the order, dated 28.06.2022 made in Crl.M.P.No.1118 of 2022 on the file of the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi.

10.Accordingly, the Criminal Appeal is allowed and the order, dated 28.06.2022 made in Crl.M.P.No.1118 of 2022 on the file of the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi, 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 sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate Court No.I, Srivaikundam, Thoothukudi District, and on further condition that:

[a]the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Judicial Magistrate Court No.I, Srivaikundam, Thoothukudi District, may obtain a copy of their valid identity card to ensure their identity.



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[b]the appellant shall stay at Trichy and report before the Inspector of Police, Cantonment Police Station, Trichy, daily at 10:30 a.m., for a period of 30 days and thereafter, appear before the respondent police daily at 10.30 a.m., until further orders.

[c]the appellant shall not tamper with evidence or witness either during investigation or trial.

[d]the appellant shall co-operate with the investigation.

[e]On breach of any of the aforesaid conditions, the learned 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]**.

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Index : Yes/No

Internet : Yes/No

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To

1.The Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi.

2.The Judicial Magistrate Court No.I, Srivaikundam, Thoothukudi District.



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- 3.The Deputy Superintendent of Police,
Srivaikundam Sub-Division,
Srivaikundam Police Station,
- 4.The Inspector of Police, Cantonment Police Station, Trichy.
- 5.The Superintendent, District Jail, Perurrani, Thoothukudi.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

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Pre-delivery order made in

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Dated : 29.07.2022