



Crl. A.(MD)Nos.602 & 633 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 28.10.2022

CORAM

THE HONOURABLE MR. JUSTICE G.ILANGO VAN

Crl. A.(MD)Nos.602 & 633 of 2022

Crl. A.(MD)No.602 of 2022

Selvathirumani

... Appellant/Petitioner

Vs.

1.State represented by
The Assistant Commissioner of Police,
Tirunelveli City,
Tirunelveli.

2.The Inspector of Police,
Thatchanallur Police Station,
Tirunelveli.
(Crime No.228 of 2022)

3.Thangaraj

.. Respondents/Respondents

Prayer : This Criminal Appeal is filed under Section 14(A)(1) of SC/ST (POA) Amended Act 2015, to call for the records pertaining to the order passed by the learned II Additional District and Sessions Judge (PCR), Tirunelveli, in Cr.M.P.No. 1866 of 2022 dated 16.09.2022 and to set aside the same and to enlarge the appellant on bail in Crime No.228 of 2022 on the file of the respondent.



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For Appellant : Mr.K.Navaneetharaja

WEB COPY For R1 & R2 : Mr.S.Manikandan
Government Advocate (Crl.Side)

For R3 : Mr.C.Senthil Murugan

Crl. A.(MD)No.633 of 2022

Marimuthu ... Appellant/Accused

Vs.

1.The Assistant Commissioner of Police,
Junction Range,
Tirunelveli City,
Tirunelveli.

... 1st Respondent/Investigating Officer

2.The Inspector of Police,
Thatchanallur Police Station,
Tirunelveli City,
Tirunelveli.

... 2nd Respondent/Complainant

3.Thangaraj

.. 3rd Respondent/Defacto Complainant

Prayer : This Criminal Appeal is filed under Section 14(A)(1) of SC/ST (POA) Amendment Act 2015, to call for the records pertaining to the order passed in Cr.M.P.No.2109 of 2022 on the file of the II Additional District and Sessions Judge, (PCR), Tirunelveli, dated 03.10.2022 and set aside the same as illegal and enlarge the appellant on bail by allowing the appeal.



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For Appellant : Mr.K.Sivabalan
For R1 & R2 : Mr.S.Manikandan
Government Advocate (Crl.Side)
For R3 : Mr.C.Senthil Murugan

COMMON JUDGMENT

These Criminal Appeals have been filed to set aside the order passed by the learned II Additional District and Sessions Judge, (PCR), Tirunelveli, in Cr.M.P.No.1866 of 2022, dated 16.09.2022 and Cr.M.P.No.2109 of 2022, dated 03.10.2022 and enlarge the petitioners on bail by allowing the appeal.

2.Since the crime is one and the same, both the matters are heard together and common order is passed.

3. The case of the prosecution in brief:-

The defacto complainant belongs to SC community. His son namely, Petchiraja was an accused in a murder case. It is alleged that he committed the murder of one Masanamuthu Nadar. Because of that issue, there was enmity between these two people. On 06.08.2022, when the defacto complainant along with his sons namely, Petchiraja & Sivakumar and one Sudalaikumar were going for construction work, at about 09.20 a.m, when they are crossing Sai Baba Temple, one accused person came in a motor cycle and dashed Petchiraja's two wheeler and other 2 persons assaulted him with sickle. He died on the spot. The accused No.1 to 3 were



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arrested. On the basis of the statement given by them, the conspiracy between the co-accused was disclosed. The financial assistance was rendered by the 8th accused came to be light. On the basis of the above said occurrence, these two appellants namely, Selvathirumani and Marimuthu were arrested and remanded to custody. Both have filed separate bail application before the Special Court. That came to be dismissed successively. Now, challenging the above said dismissal orders, these two separate appeals have been preferred.

4.Now, the learned counsel for both the appeals would submit that absolutely, there was no enmity between these two appellants and the deceased. There was enmity between the accused No. 1 to 3 and the defacto complainant group. In which, these two appellants are not involved.

5.The learned Government Advocate (Crl.Side) would submit that there was a conspiracy between all the accused persons to retaliate murder of the above said Petchiraja. The petitioner/8th Accused in Crl.A(MD)No.602 of 2022 rendered financial help to the main accused and insofar as Marimuthu is concerned he gave a two wheeler to the main accused. Before the Special Court, the defacto complainant appeared and stated that if the appellants are released on bail, then his life will be in danger.



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6.Considering the fact that it is a case of retaliation, the successive bail applications were dismissed. The learned counsel for the appellants submitted that they were not directly involved in the above said occurrence. Only on the basis of the confession statement of the co-accused, the appellants have been arrayed as accused, considering the limited role alleged have been played by these appellants and considering the period of incarceration, they may be enlarged on bail.

7.Perusal of the order passed by the Special Court shows that there is a specific allegation against the appellant in Crl.A.(MD)No.602 of 2022 is concerned he rendered the financial assistance to the main accused and insofar as the appellant in Crl.A.(MD)No.633 of 2022 is concerned, he supplied his two wheeler to the main accused for the purpose of committing the above said murder.

8.When there is serious allegation of conspiracy to take retaliatory action, if the appellants are released on bail, there is every likelihood of tampering the investigation process and even the life of the defacto complainant may be in danger. So, the offence of such murder, cannot be taken lightly. The manner, in which, the retaliation came to be executed, I find absolutely no reason to differ from the order that has been passed by the learned II Additional District and Sessions Judge, (PCR),



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Tirunelveli, in Cr.M.P.No.1866 of 2022, dated 16.09.2022 and Cr.M.P.No.2109 of 2022, dated 03.10.2022 . Accordingly, **both the Criminal Appeals are dismissed.**

28.10.2022

Index : Yes/No
Internet : Yes/No
dss

To

- 1.The II Additional District and Sessions Judge, (PCR),
Tirunelveli.
2. The Assistant Commissioner of Police,
Tirunelveli City,
Tirunelveli.
- 3.The Inspector of Police,
Thatchanallur Police Station,
Tirunelveli.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN,J

dss

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