



Crl.A.No.60 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2023

CORAM:

THE HONOURABLE Mr.JUSTICE **V.SIVAGNANAM**

Criminal Appeal No.60 of 2023

Lingeswaran

.. Appellant

/versus/

1.The State Rep.by
The Deputy Superintendent of Police,
Omalur Sub Division,
Salem District.

2.The Inspector of Police,
All Women Police Station,
Omalur,
Salem District.
Crime No.16/2022

3.Sivakumar

.. Respondents

Criminal Appeal has been filed under Section 14A (ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, praying to call for the records pertaining to the bail dismissal order passed by the learned Sessions Judge, Principal POCSO Court, Salem in Crl.M.P.No.1000 of 2022 dated 27.12.2022 and set aside the same and to enlarge the appellant on bail.



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For Appellant : Mr.C.Deepa Kumar
For R1 & R2 : Mr.C.E.Pratap
Government Advocate(Crl.Side)
For R3 : Notice served-No appearance

JUDGMENT

This Criminal Appeal has been filed challenging the order dated 27.12.2022 passed in Crl.M.P.No.1000 of 2022 in Crime No.16 of 2022 on the file of the learned Sessions Judge, Principal POCSO Court, Salem.

2. In spite of notice sent to the 3rd respondent/complainant, the 3rd respondent not appeared in person or through his counsel.

3. The learned counsel for the appellant submitted that the respondent police registered a case against the appellant in Crime No.16 of 2022 for the offence under Sections 294(b), 324 I.P.C., 11(1), 11(4), 12 of POCSO Act, 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, on 12.12.2022 upon the complaint given by one Sivakumar. The said



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Sivakumar in his complaint has stated that the appellant/accused having love affair with his daughter. On 11.12.2022 at about 5.00 p.m., near Mariamman temple, When the *de facto* complainant questioned the accused about love affairs with his daughter, the appellant/accused has insulted by abusing his caste and also attacked him by hand and he sustained injury. Hence the case has been registered on 19.12.2022. He further stated that all the injuries are simple in nature, hence seeking grant of bail.

4. The learned Government Advocate (Crl.Side) for the respondent submitted that as per the Accident Register, the doctor has recorded that the patient was treated for the complaint of pain and the injury is simple in nature.

5. I have considered the submissions made by the learned counsel and perused the materials on record.

6. On perusal of the records, the fact reveals that the appellant/accused and the daughter of the *de facto* complainant having



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love affair. On 11.12.2022, at about 5.00 p.m., near Mariamman temple, the *de facto* complainant questioned about the love affairs of the appellant/accused with his daughter. Therefore, the accused insulted by abusing his caste and assaulted with hands. In pursuance of the complaint given by the complainant, the case has been registered by the respondent police in Crime No.16 of 2022. Further, on perusal of the Accident Register issued by the Government hospital, Omalur on 12.12.2022, it is seen that the doctor has recorded that the patient was treated for the complaint of pain and nature of injury is simple. Further the accused is in judicial custody from 19.12.2022.

7. Considering the nature of the injury sustained by the *de facto* complainant, I am inclined to grant bail to the appellant and the appellant is ordered to be released on bail on executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum, before the Principal POCSO Court, Salem on the following conditions;



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(a) the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

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

(c) the appellant to appear before the trial Court on all hearing dates.

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

(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]***; and;

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



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8. With the above directions, this ***Criminal Appeal is allowed***

and the order passed by the Trial Court in Crl.M.P.No.1000 of 2022 dated 27.12.2022 is set aside.

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Internet:yes/no
Speaking order/ Non speaking order
rpl

To

1.The Sessions Judge, Principal POCSO Court, Salem.

2.The Deputy Superintendent of Police,
Omalur Sub Division,
Salem District.

3.The Inspector of Police,
All Women Police Station,
Omalur,
Salem District.

4.The Public Prosecutor,
High Court of Madras,
Chennai.



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V.SIVAGNANAM,J.

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