



Crl.A.No.48 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 10.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

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1. Moorthi

2. Mohanraj

... Appellants

Vs.

1. The Superintendent of Police,
Villupuram District.

2. The Deputy Superintendent of Police,
Gingee, Villupuram District.

3. State rep. by Station House Officer,
Kedar Police Station, Villupuram District.
(Crime No.227/2022).

4. Mariyanathan

... Respondents

Prayer: Criminal Appeal filed under Section 14 -A of SC/ST Act to set aside the order dated 09.01.2023 made in Crl.M.P.No.2700/2022 on the file of the Sessions Judge, Special Court for Exclusive Trial of the cases registered under Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and consequently, enlarge the appellants on bail in the above Crime No.227/2022, pending investigation on the file of the 3rd respondent police.



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For appellants : Mr.P.Arumugavel

For Respondents 1 to 3 : Mr.C.E.Pratap,
Government Advocate (Crl. Side)

For fourth respondent : Mr.M.Suresh

JUDGMENT

This Criminal Appeal has been filed to set aside the order dated 09.01.2023 passed in Crl.M.P.No.2700/2022 by the learned Sessions Judge, Special Court for Exclusive Trial of the cases registered under Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and consequently, enlarge the appellants on bail in Crime No.227/2022, pending investigation on the file of the 3rd respondent police.

2. The case of the prosecution is that one Mariyanathan, father of the deceased, gave a complaint on 23.12.2002 alleging that on 21.12.2022, while his son, namely, Raja was returning to his home after finishing dinner, the accused persons namely Moorthy/A1, Mohan/A2 and Suresh/A3 under influence of alcohol, have intercepted



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him and asked him “ நீ காலணியா பறையனா ” and also assaulted him with iron rod, thereby he sustained grievous head injuries and he was admitted to hospital. Further, on 22.10.2022 at 10.00 a.m., the said persons along with 40 persons, had come to the house of the de-facto complainant and also threatened him with dire consequences and also they filed a false complaint against the de-facto complainant and his son. Due to the above incident and also unable to bear the head pain, his son namely, Raja committed suicide at about 7.00 p.m. on 22.12.2022 by hanging himself and hence, he gave the complaint on 23.12.2022. Upon receipt of the complaint, the respondent police registered a case in Crime No.227/2002 for the offences punishable under Sections 147, 148, 341, 294(b), 324, 506(ii), 306 IPC r/w 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST Act against Moorthy and 40 persons.

3. During the course of investigation, the respondent police arrested the accused persons/appellants herein on 25.12.2022 and remanded to judicial custody. In such circumstances, the appellants herein, filed a petition in Crl.M.P.No.2700 of 2022 before the learned



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Sessions Judge, Special Court for Exclusive Trial of Cases registered under the ST/ST (POA) Act, Villupuram seeking bail and the same was dismissed on 09.01.2023. Challenging the above said order, the appellants filed the present appeal, seeking to set aside the order passed by the Trial Judge and also to enlarge them on bail.

4. The learned counsel for the appellants submitted that the de-facto complainant had lodged a false complaint against the appellants, as counter case to the complaint given by the first appellant/ A1. He further submitted that, on 21.12.2022 at about 11.-00 p.m., three persons namely Jabasten, Vinoth and Raja (deceased) came to the house of first appellant/A1 and tried to steal their two wheeler bearing registration No.TN 32 B 1563 and it was prevented by him and others and in that incident, the above said persons including deceased Raja, assaulted him and his workman Natarajan and also the deceased assaulted his son on his fingers with knife thereby he sustained grievous injuries. Hence, the first appellant/A1 lodged a complaint on 21.12.2022 against the above said persons and it was registered by the respondent police in Crime No.224/2022 for the offences punishable



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under Sections 294(b), 323, 324, 506(i), 379, 511 IPC. Therefore, wreck vengeance of the above, the de-facto complainant lodged a false complaint against the appellants and others.

5. The learned counsel for the appellants further submitted that, the deceased not belongs to SC/ST community, however, the case was registered against the appellants under SC/ST (POA) Act along with other offence. He also submitted that the appellants are in judicial custody from 25.12.2022 and hence, he seeks to grant bail to the appellants.

6. The learned Government Advocate (Crl.Side) appearing for the respondents 1 to 3 filed a counter affidavit and submitted that, based on the complaint received from the first appellant, namely, Moorthy/A1, a case in Crime No.224/2002 was registered against three persons namely, Jabasteen, Vinoth and Raja (deceased) on 22.12.2022 for the offences punishable under Sections 294(b), 323, 324, 506(i), 379, 511 IPC. Further, on 23.12.2022, upon receipt of a complaint from one Marianathan/defacto complainant, father of the deceased Raja, the



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present case in Crime No.227/ 2022 was registered against the appellants herein and 40 others for the offences punishable under Sections 147, 148, 341, 294(b), 324, 506(ii), 306 IPC and Section 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST (POA) Act.

7. He further submitted that, the deceased Raja had love affair with one Prithivraj @ Annaniya, third gender and he asked her mother's permission to marry her, but her mother denied for the same and in view of the same a wordy quarrel arose between them. After the death of Raja, the above said Prithivraj @ Ananya attempted to commit suicide on 25.12.2022, and she was admitted as inpatient in Government Hospital Villupuram. In this regard a case in Crime No.843/2022 was registered for the offence punishable under Section 309 IPC on 25.12.2022.

8. The learned Government Advocate (Crl.Side) further submitted that during investigation, it reveals that the deceased Raja and the de-facto complainant are not belonged to Schedule Caste and they belonged to Christian Adi Dravidar (Backward community), vide



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community bearing Moo.Mu.No.A8/42/2023, dated 06.01.2023, issued by the Revenue Tahsildar, Vikiravandi Taluk. Hence the investigating officer forwarded a letter dated 10.01.2023 to the learned Sessions Judge, Special Court under SC/ST Act, Villupuram, requesting to alter the offences. Accordingly, the offence under 3(1)(r)(s), 3(2)(va) were deleted and now the remaining offences are under Sections 294(b), 506(ii), 306 IPC.

9. The learned Government Advocate (Crl.Side) further submitted that one previous case in Crime No.226/2022 for the offence punishable under Section 294(b), 324, 506(ii) IPC is pending against the first appellant/A1 and now, in this case, investigation is under progress. Hence, if the appellants are let on bail, there is a possibility of absconding and also tampering evidence and threaten the witnesses. Therefore, he opposed to grant bail to the appellants.

10. The learned counsel appearing for the fourth respondent/ de-facto complainant filed counter affidavit and submitted that on 22.12.2022 at morning, the appellants along with 40 henchmen came to



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the house of the de-facto complainant and tried to kill his son Raja.

Further, on 21.12.2022, when the defacto complainant's son Raja was returning to his home, after finishing dinner, the appellants wrongly restrained him and questioned him whether he belongs to Scheduled Caste and also they beaten him with iron rod on his head. He also submitted that, while taking treatment, the appellants and 40 others came to the house of the de-facto complainant and threatened him not to lodge any complaint. However, the appellants using their influence, lodged a false complaint on 22.12.2022 at 4.30 p.m. against the deceased and two others. Therefore, due to pain and mental agony, the deceased committed suicide on 22.12.2022 at about 7.00 p.m. by hanging himself. Only in view of the threaten and torture made by the appellants herein, the son of the de-facto complainant committed suicide and hence they are responsible for the commission of suicide by the deceased. He also submitted that the appellants are highly influential persons and if they are enlarged on bail, they will tamper the witness and evidence and hence, he vehemently objected to grant bail to the appellants.



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11. Heard the learned counsel for the appellants and the learned Government Advocate (Crl.Side) appearing for the respondents 1 to 3 and the learned counsel appearing for the 4th respondent/de-facto complainant and perused the materials on record.

12. A perusal of the records shows that, the respondent police registered a case in Crime No.227/2022 on 23.12.2022 against the appellants herein and others for the offences punishable under Sections 147, 148, 341, 294(b), 324, 506(ii), 306 IPC and Section 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST (POA) Act. The allegations against the appellants are that, under influence of alcohol, they restrained the deceased Raja and asked him whether he belonged to Schedule Caste and also they attacked him with iron rod, due to which, he sustained grievous injuries on his head. The further allegation against the appellants is that, they went to the house of the de-facto complainant and threatened the deceased and the de-facto complainant not to lodge any complaint and due to the mental agony and head pain, the deceased Raja, committed suicide by hanging himself.



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13. Now, the facts reveal that, the Revenue Tahsildar, Vikravandi issued a community certificate, showing the deceased Raja and the de-facto complainant are belonged to Backward Community and not belonged to Schedule Caste.

14. It is the contention of the appellants that, on the day before the date of occurrence, i.e. on 21.12.2022, at 11.00 p.m., the deceased Raja and two others came to the first appellant's house and they attempted to steal their bike and during that time, there arose quarrel between them and the deceased cut the first appellant's son, with knife, thereby, his son sustained injuries on his fingers. In this regard, he gave a complaint in Crime No.224/2022 against the deceased and two others; and to wreck vengeance on the same, the de-facto complainant, who is father of the deceased Raja, gave a counter case in Crime No.228/2022 on 23.12.2022 against the appellants. Therefore, they pleaded to grant bail.



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15. The Government Advocate (Crl.Side) appearing for the respondents 1 to 3 and the learned counsel appearing for the 4th respondent/ de-facto complainant, vehemently opposed to grant bail to the appellants, stating that investigation is under progress and if they are let on bail, they will tamper the witness and evidence.

16. Considering the nature of the offence and other circumstances and also taking into account the submission made by the counsel for the appellants that the present case in Crime No.227/2022 is a counter case to the case registered in Crime No.224/2022 and also considering the incarceration suffered by the appellants, this Court is inclined to grant bail to them.

17. Accordingly, this Criminal Appeal is allowed by setting aside the impugned order passed by the Trial Court in Crl.M.P.No.2700/2022 dated 09.01.2023, and bail is granted to the appellants with the following conditions.



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(i) The appellants are directed to be enlarged on bail on condition that the appellants *shall execute a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) each, with two sureties each, to the satisfaction of the learned Judicial Magistrate No.II, Villupuram.*

(ii) The appellants shall affix their photograph and Left Thumb Impression in the bond and the concerned Court, may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

(iii) The appellants shall appear before the respondent police, every Monday at 10.30 a.m., until further orders.

10.02.2023

Note: Issue order copy on 14.02.2023

Index:Yes/No

Internet:Yes/No

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To

1. The Judicial Magistrate No.II, Villupuram.
2. The Superintendent, Central Prison, Cuddalore.
3. The Superintendent of Police, Villupuram District.
4. The Deputy Superintendent of Police, Gingee, Villupuram District.
5. State rep. by Station House Officer, Kedar Police Station,
Villupuram District.
- 6.The Public Prosecutor, High Court, Madras.



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V.SIVAGNANAM, J.

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