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CrI.A.No.321 of 20



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2023

CORAM

THE HONOURABLE Mr. JUSTICE V. SIVAGNANAM

CrI.A.No.321 of 2023

Ayyappan

... Appellant

Vs.

1. The Deputy Superintendent of Police,
Mayiladuthurai,
Mayiladuthurai District.

2. State by the Inspector of Police,
Manalmedu Police Station,
Mayiladuthurai District.
Crime No.26 of 2023.

3. Karikalan

... Respondents

Criminal Appeal filed under Section 14A(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 as amended by Act 1 of 2016) to call for the records pertaining to the order dated 03.03.2023 made in Cr.M.P.925 of 2023 on the file of the Principal District and Sessions Judge, Nagapattinam and set aside the same and consequently enlarge the appellant on bail in connection with Crime No.26 of 2023 on the file of the respondent by allowing this appeal.



For Petitioners : Mr.C.Munusamy

For Respondents : Mr.A.Gokulakrishnan
1 & 2 Additional Public Prosecutor

For Respondent-3: Notice served – No Appearance

ORDER

This criminal appeal has been filed challenging the order dated 03.03.2023 passed by the learned Principal District and Sessions Judge, Nagapattinam in Cr.M.P.No.925 of 2023 and to grant bail.

2.The learned counsel for the appellant/2nd Accused submitted that in the middle portion of the impugned order, the learned Judge had recorded that A1 and A2 were arrested by the respondent, but it was recorded in the last line that the appellant/2nd Accused absconded and not remanded to judicial custody.

3.When the matter is taken up for hearing today, the learned Additional Public Prosecutor appearing for respondents 1 and 2



submitted that after surrendering before the Court below, the appellant / 2nd accused absconded from the Court and he was not remanded by the respondent Police. Hence, this appeal itself is not maintainable.

4. Heard the learned counsel for the appellant and the learned Additional Public Prosecutor appearing for respondents 1 and 2 and perused the materials available on record.

5. On perusal of the records, it is seen that the 2nd respondent-Police registered a case against the appellant/2nd Accused in Crime No. 26 of 2023 for the offences under Sections 341, 294(b), 323, 324 of I.P.C r/w Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015. The appellant/2nd Accused surrendered before the trial Court on 03.03.2023 by filing a petition in Crl.M.P.No.925 of 2023. After surrendering, the appellant/2nd Accused escaped from the Court, Hence, the Court dismissed the bail application and recorded that the appellant/2nd Accused absconded from the Court and not remanded to judicial custody.



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6. In this regard, the learned Additional Public Prosecutor appearing for the respondents 1 and 2, on instructions from the concerned police, viz., Mr.K.Baskar, Head Constable, who has appeared before this Court today, reported that the appellant/2nd Accused was not arrested and he is still outside as on date. Since the appellant/2nd Accused is not in judicial custody, there is no question of granting bail to him and the bail application is not maintainable. Accordingly, this Criminal Appeal is dismissed.

20.04.2023

srn

To

1. The Principal District and Sessions Judge, Nagapattinam
2. The Deputy Superintendent of Police,
Mayiladuthurai,
Mayiladuthurai District.
3. The Inspector of Police,
Manalmedu Police Station,
Mayiladuthurai District.
4. The Public Prosecutor,
High Court, Madras.



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V. SIVAGNANAM, J.

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