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Crl.A.No.565 of 20__

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.A.No.565 of 2023

Thiyagrajan

...

Appellant

/vs/

1. The Deputy Commissioner of Police,
Office of the Deputy Commissioner of Police,
Sirkazhi,
Mayladuthurai District

2. State rep. by
The Inspector of Police,
Sirkazhi Police Station,
Mayiladuthurai District.

3. Mrs. R.Selvazhagi

...

Respondents

Prayer : Criminal Appeal filed under section 14(A)(2) of SC/ST(Prevention of Atrocities) Act to set aside the order dated 17.05.2023 made in Crl.M.P.No.1832 of 2023 on the file of the Principal District and Sessions Judge, Nagapattinam and to enlarge the appellant on bail in Crime No.181 of 2023 on the file of the respondent police.



For Appellant ... Mr. Om. Sai Ram
For Respondent ... Mr.A.Gokulakrishnan,
Nos.1 & 2 Additional Public Prosecutor

For Respondent ... Mr.K.C.Karal Marx
No.3

JUDGMENT

This Criminal Appeal has been filed challenging the order dated 17.05.2023 passed in Crl.M.P.No.1832 of 2023 by the learned Principal District and Sessions Judge, Nagapattinam.

2. The respondent police registered a case in Crime No.181/2023 against the appellant for the offences punishable under Sections 294(b), 323, 506(i) IPC Sections r/w. 3(1) (r), 3(2)(va) of SC/ST [Prevention of Atrocities] Act. The appellant filed a petition in Crl.M.P.No.1832 of 2023 to grant bail to him and the same was dismissed by the abovesaid Judge, vide order dated 17.05.2023. Challenging the abovesaid order, this criminal appeal has been filed.



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3.The learned counsel for the appellant submitted that the appellant is the Head Master of the Panchayat Union Middle School, Senthagudi, Vilanthida Samuthiram Sirkazhi , where the defacto complainant's son and daughter were studying. The complaint has been lodged against the appellant as if the accused was continuously harassing the defacto complainant's son and also assaulted him, thereby caused injuries to him. Pursuant the complaint, a false case has been foisted as against the appellant/accused and he is in custody from 17.05.2023. Therefore, seeks to set aside the impugned Order.

4. The learned counsel appearing for the defacto complainant/3rd respondent submitted that the allegation stated in the complaint is true one . Initially, the complaint given by the defacto complainant was not taken on file by the police . Only after filing a petition under Section 156(3) Cr.P.C., the case has been registered against the appellant/accused. Evenafter registering the case, the defacto complainant's family was ex-communicated and the accused is threatening the defacto complainant's family members. Hence, opposed to grant bail to him.



5. The learned Additional Public Prosecutor appearing for the first and second respondents submitted that pursuant to the complaint given by the defacto complainant, the second respondent registered a case against the appellant / accused in Crime No.181/2023 against the appellant for the offences punishable under Sections 294(b), 323, 506(i) IPC Sections 3(1) (r), 3(2)(va) of SC/ST [Prevention of Atrocities] Act. He further submitted that 161 Cr.P.C. statement of the witnesses were recorded. There is no complaint for the allegation that ex-communication and threatening of the defacto complainant's family and the defacto complainant's family and the accused family are residing in separate place and investigation is not yet completed. Therefore, objected to grant bail to the appellant.

6. Heard the learned counsel for the appellant and the learned Additional Public Prosecutor for the first and second respondents and the learned counsel for the third respondent and perused the materials on record.

7. On a perusal of the records and the FIR, it is noticed that the defacto complainant's son and daughter are studying in Panchayat Union Middle School, Senthagudi, Vilanthida Samuthiram Sirkazhi, in which the appellant/accused is working as Head Master. In the complaint, it is alleged



that on 21.07.2022, at about 11.00 a.m., while the appellant/accused was taking class, he ill-treated the defacto complainant's son and on 22.07.2022, the appellant threatened the defacto complainant's son to get back the Transfer Certificate from the school and also assaulted him. Due to which, he took treatment at Sirkazhi Government Hospital. The appellant also refused to give uniform to the defacto complainant's son.

8.Considering the nature of offence alleged against the appellant and also considering the period of incarceration, I am inclined to grant bail to the appellant with some conditions.

9. Accordingly, this Criminal Appeal is allowed by setting aside the impugned order dated 17.05.2023 passed in Crl.M.P.No.1832/2023 and bail is granted to the appellant with the following conditions :

(i) The appellant is directed to be enlarged on bail on condition that the appellant *shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Sirkazhi*



(ii) the appellant and 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;

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

(iv) **the appellant shall report before the abovesaid Court on the first working day of every month at 10.30 a.m., until further orders.**

(v) **the appellant or any person on behalf of the appellant accused should not threaten the victim and his family members.**

(v) the appellant shall not abscond during trial;

(vi) on breach of any of the aforesaid conditions, the learned Trial Judge is entitled to take appropriate action against the appellant in accordance with law as if the conditions has been imposed and the appellant released on bail by the learned Trial Judge himself as laid down by the Hon'ble Supreme Court in ***P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]***; and;

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



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10. The respondent police is directed to complete the investigation and file the final report within a period of three months from today,(i.e.) 02.06.2023.

Index : Yes/No

Internet: Yes/No

mrp

02.06.2023

Note : Issue order copy today

To

1. The Judicial Magistrate,
Sirkazhi
2. The Principal District and Sessions Judge,
Nagapattinam.
3. The Deputy Commissioner of Police,
Office of the Deputy Commissioner of Police,
Sirkazhi,
Mayladuthurai District
4. The Inspector of Police,
Sirkazhi Police Station,
Mayiladuthurai District.
5. The Superintendent, District Jail, Nagapattinam
6. The Public Prosecutor, High Court of Madras, Chennai.



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V.SIVAGNANAM, J.

mrp

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