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Crl.A.No.778 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2023

CORAM

THE HONOURABLE Mrs.JUSTICE **R.HEMALATHA**

Crl.A.No.778 of 2023

Vinayagam

Vs.

...Appellant

1. The Deputy Superintendent of Police
Villupuram Range
VOC Street, Thiru vi ka Road
Villupuram HO, Villupuram 605 602

2. The State rep by its
Inspector of Police
Periyathachur Police Station
Villupuram 604 306

3. Divyabarathi

.. Respondents

Prayer: Criminal Appeal filed under Section 14A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 as amended by Act 1/2016 to set aside the order dated 07.07.2023 passed in Crl.M.P.No.1862 of 2023 on the file of the Special Court for exclusive trial of cases registered under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, (SC/ST (POA) Act) Villupuram, and to enlarge the appellant on bail in connection with Crime No.109 of 2023.



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For Appellant : Mr.L. Infant Dinesh

For R1 & R2 : Mr.S. Sugendran
Additional Public Prosecutor

For R3 : Mr. K. Sathyaraj

JUDGMENT

The present Criminal Appeal is filed against the orders dated 07.07.2023, passed in Crl.M.P.No.1862 of 2023 , on the file of the Special Court for SC/ST Cases, Villupuram, and to enlarge the appellant, who is the 1st accused in Crime No.109/2023 of Periyathachur Police Station, Villupuram 604 306.

2. The case of the prosecution is that the defacto complainant belongs to Scheduled Caste Community and the appellant/accused belongs to Yadava community. The appellant/accused and the defacto complainant got married on 29.10.2020 against the wishes of their parents. Subsequently, they got separated and the defacto complainant lodged a complaint with the Inspector of Police, Periyathachur Police Station, Villupuram, against the appellant, her in-laws (parents of the appellant) and her brother-in-law by stating that her in-laws assaulted her and also abused her in filthy language mentioning her community. The further allegation of the defacto complainant is that she



was threatened with dire consequences.

2.1. Based on the complaint, the Inspector of Police, Periyathachur Police Station, Villupuram, registered an FIR in Crime No.109 of 2023 against the accused for the offences punishable under Sections 294 (b), 323, 506(i) IPC, 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 r/w 3(1)(f), 3(1)(s), 3(2) (va) and 3(1) (w) (ii) of SC/ST (Prevention of Atrocities) Act, 1989. Thereafter the appellant/accused was arrested and remanded to judicial custody.

2.2. The appellant filed a petition under Section 439 Cr.P.C. in Crl.M.P. No.1862 of 2023 before the Sessions Judge, Special Court for Exclusive Trial of cases registered under SC/ST(POA) Act, Villupuram. The learned trial court judge, vide her orders dated 07.07.2023, dismissed the said petition on the ground that the investigation is still pending and that if the accused is released on bail he would tamper with the witnesses.

2.3. Aggrieved over the same, the present Criminal Appeal is filed by the accused.

3. Heard Mr.L. Infant Dinesh, learned counsel for the appellant,



Mr.S.Sugendran, learned Additional Public Prosecutor and Mr. K. Sathyaraj, learned counsel for the 3rd respondent/defacto complainant.

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4. Mr.L. Infant Dinesh, learned counsel for the appellant contended that the appellant has not committed any offence under the SC/ST Act and that the investigation has also been completed and hence prayed for grant of bail to the appellant.

5. Mr. K. Sathyaraj, learned counsel for the defacto complainant did not raise any serious objections but he pressed for the return of the articles belonging to the defacto complainant by the appellant. The learned counsel for the appellant contended that the appellant is ready to return back all the jewels and other articles to the defacto complainant. Learned Additional Public Prosecutor contended that the investigation has been completed and that the charge sheet has been filed in e-filing No.2154/2023.

6. Considering the facts and circumstances of the case, the appellant/accused is enlarged on bail, on the following conditions:

- i. The appellant shall execute a bond for a sum of Rs.25,000/- each, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Sessions Judge, Special Court for



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Exclusive Trial of cases registered under SC/ST(POA) Act, Villupuram;

- ii. the sureties shall affix their photographs and Left Thumb Impression on the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;
- iii. the appellant shall report before the respondent/police as and when required;
- iv. on breach of any of the aforesaid conditions, the learned Sessions Judge 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 Sessions Judge himself as laid down by the Hon'ble Supreme Court in ***P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]***; and
- v. if the appellant thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

09.08.2023

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To



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1. The Sessions Judge, Special Court for Exclusive Trial of cases registered under SC/ST(POA) Act, Villupuram
2. The Deputy Superintendent of Police
Villupuram Range
VOC Street, Thiru vi ka Road
Villupuram HO, Villupuram 605 602
3. The State rep by its
Inspector of Police
Periyathachur Police Station
Villupuram 604 306
4. The Superintendent of Prison
Cuddalore Prison, Cuddalore.
5. The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



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R.HEMALATHA, J.

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