



Crl.A.No.1097 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.1097 of 2023

Veeramani,
S/o.Elangovan

... Appellant

Vs.

1.State, represented by
The Deputy Superintendent of Police,
O/o.The Deputy Superintendent of Police,
Mayiladuthurai, Mayiladuthurai District.

2.Inspector of Police,
Sembanarkovil Police Station,
Myladuthurai District.
(Crime No.76/2023).

3.Kalaiselvi

... Respondents

PRAYER: Criminal Appeal is filed under Section 14(A) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, to set aside the order in Crl.M.P.No.2924 of 2023 dated 19.09.2023 passed by the learned District and Sessions Judge, Nagapattinam and enlarge the appellant on bail in connection with Crime No.76 of 2023 on the file of the Respondent Police and pending investigation.

For appellant	:	Mr.Ilayaraja Kandasamy
For R1 & R2	:	Mr.A.Damodaran, Additional Public Prosecutor
For R3	:	Mr.M.Machavathanan



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JUDGMENT

This Criminal Appeal has been filed to set aside the order in Crl.M.P.No.2924 of 2023 dated 19.09.2023 passed by the learned District and Sessions Judge, Nagapattinam and enlarge the appellant on bail in connection with Crime No.76 of 2023 on the file of the 2nd respondent Police and pending investigation.

2.The appellant is an accused in Crime No.76 of 2023 for offence under Sections 294(b), 323 of IPC and Sections 3(1)(r), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3.The gist of the case is that the 3rd respondent/defacto complainant borrowed a sum of Rs.10,000/- as advance one year prior from the appellant for the purpose of brick line work. The appellant herein was demanding back the amount from the 3rd respondent whenever he saw her despite she completed her work. This being so, on 18.02.2023, at about 11.00 p.m., the appellant came to the 3rd respondent's house and demanded the money, at that time, the 3rd respondent informed that she



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will handover the money on the next day. Not hearing the same, the appellant called the 3rd respondent using her caste name and pushed her down. When the 3rd respondent's husband came to rescue, he was also beaten with the stick. Thereafter, the 3rd respondent's daughter took the 3rd respondent to Government Hospital, Mayiladuthurai where the complaint was lodged to the 2nd respondent Police and the above case was registered.

4.The contention of the appellant is that it is admitted case of the 3rd respondent that she received a sum of Rs.10,000/- one year back for cutting bricks. This job was not completed and she had to return back the amount which was demanded by the appellant. To somehow escape from the liability of repayment, the appellant falsely implicated in this case. The appellant had never used any abusive words calling upon her caste name and social status of the 3rd respondent is very much known and they are known to each other for a very long time. Now taking advantage of the social status, a false case has been registered against the appellant. He further submitted that there is no need for the 3rd respondent to go on the particular day at that point of time demanding



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money when the admitted case is that the money has been given almost a year back. There is no material in this case for usage of abusive words in a public view and thereby, the 3rd respondent got insulted. He further submitted that the appellant voluntarily surrendered before the Court below on 07.08.2023 on coming to know about the registration of the case against him. In this case, the investigation completed and charge sheet filed and taken on file as Special S.C.No.23 of 2023. Hence, sought for bail.

5.The learned Additional Public Prosecutor appearing for the respondents 1 and 2 submitted that on the complaint of the 3rd respondent a case in Crime No.76 of 2023 for offence under Sections 294(b), 323 of IPC and Sections 3(1)(r), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 registered. The investigating officer took up the investigation, examined the 3rd respondent, her husband and daughter (LW3 and LW4) and thereafter, in presence of the witnesses, Observation Mahazar and Rough Sketch prepared, examined the witnesses in the scene of occurrence, recorded the statement, collected materials and charge sheet filed before the trial Court



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in Special S.C.No.23 of 2023. In this case, there are totally 12 witnesses and the trial itself can be completed within a short period. He fairly submitted that the appellant voluntarily surrendered before the Court below and he is in custody from 07.08.2023.

6.The learned counsel for the 3rd respondent/defacto complainant submitted that the appellant and the 3rd respondent are residing in the same village. The presence of the appellant would only deter the other witnesses to move freely and to depose before the trial Court. Hence, he sought some condition to be imposed.

7.Considering the submissions and on perusal of the materials, it is seen that the occurrence had taken place on 18.02.2023, FIR registered after five day on 23.02.2023, thereafter, investigation completed on 16.05.2023 and charge sheet filed and the same taken on file as Special S.C.No.23 of 2023. The appellant and the 3rd respondent are known to each other for quite some time. The admitted case is that one year prior to the occurrence, the 3rd respondent received Rs.10,000/- from the appellant and there is some dispute with regard to quantum of work done



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and the amount have to be repaid or not. Further, the appellant and the 3rd respondent are residing in the same village in harmony during all these days. In view of the same, the objection raised by the learned counsel for the 3rd respondent is unfound.

8. Finding that the investigation completed and charge sheet filed and the appellant is in prison from 07.08.2023, this Court is inclined to grant bail to the appellant subject to the following conditions.

(i) The appellant shall execute a bond for a sum of Rs.5,000/- (Rupees five thousand only) within a period of 15 working days from the date of receipt of a copy of this order with two sureties each for a like sum to the satisfaction of the learned District and Sessions Judge, Nagapattinam failing which, the Criminal Appeal for bail shall stand dismissed and on further condition that;

(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Judge may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(iii) the appellant shall appear before the trial Court on all hearing dates without fail.



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(iv)The appellant shall not give any inconvenience or trouble knowingly or unknowingly to the 3rd respondent, failing which, the bail shall be cancelled without any further reference.

(v)the appellant shall not commit any offences of similar nature;

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

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

(viii)on breach of any of the aforesaid conditions, the learned Judicial 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]***;

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



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9.In view of the above, the order, dated 19.09.2023, made in Crl.M.P.No.2924 of 2023 is set-aside and the Criminal Appeal is, accordingly, allowed.

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Index: Yes/No
Internet: Yes/No
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To

- 1.The Deputy Superintendent of Police,
O/o.The Deputy Superintendent of Police,
Mayiladuthurai, Mayiladuthurai District.
- 2.The Inspector of Police,
Sembanarkovil Police Station,
Myladuthurai District.
- 3.The District and Sessions Court,
Nagapattinam.
- 4.The Central Prison,
Cuddalore.
- 5.The Public Prosecutor,
High Court, Madras.

M.NIRMAL KUMAR, J.



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