



Crl.A.No.1245 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 02.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.A.No.1245 of 2022

R. Srinivasan

... Appellant

Vs.

- 1.The State of Tamilnadu
represented by the Station
House Officer, Thirukoilur
Police Station, Villupuram District.
- 2.The Deputy Superintendent of
Police,
District Crime Branch-I,
Villupuram District.
3. Tmt. Lakshmi

... Respondents

Prayer: Criminal Appeal filed under Section 14(1)(2) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 against the order passed in Crl.M.P.No.2285 of 2022 by the Sessions Judge, Special Court for exclusive Trial of cases registered under the Scheduled Castes and Scheduled Tribes (POA) Act, 1989, Villupuram.



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Crl.A.No.1245 of 2022

For Appellant : Mr.S. Karthikeyan

For Respondents : Mr.C.E.Pratap
Government Advocate (Crl. Side)
for R1 & R2

Mr. Sathia Chandran for R3

JUDGMENT

This Criminal Appeal Petition has been filed against the order passed in Crl.M.P.No.2285 of 2022 by the Sessions Judge, Special Court for exclusive Trial of cases registered under the Scheduled Castes and Scheduled Tribes (POA) ct, 1989, Villupuram.

2. The case of the prosecution is that the 3rd respondent herein has preferred a complaint to the Superintendent of Police, Villupuram District alleging that she belongs to Irular Community and that on 22.11.2021, her husband was taken by three police personnel and further on the same day, she along with 9 people were taken in a van and on reaching a deserted place, the police personnels A2 to A5 have committed rape on the four women



Crl.A.No.1245 of 2022

including the defacto complainant. Hence, on a complaint preferred on 26.11.2011, a First Information Report was registered in Crime No.887 of 2011. On investigation by the 2nd respondent, the department had suspended the appellant along with other four accused from 2011 to 2014 and after investigation, a charge sheet has been filed before the learned Judicial Magistrate Court, Thirukovilur against them and the same has been committed to Sessions Judge, Special Court for exclusive trial of cases registered under the scheduled castes and the scheduled tribes (Prevention of Atrocities) Act, 1989, Villupuram accused, wherein, the appellant/A1 was charged under sections 147, 166, 323, 341, 342, 348, 365 IPC, r/w.3(i)(XII) SC/ST Act and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, A2 and A3 were charged under sections 147, 166, 341, 342, 348, 365, 376(2)a(i) IPC, r/w. section 3(1)(XII) SC/ST Act and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. A4 was charged under sections 147, 166, 341, 342, 348, 365, 376(2)a(i) and (e) IPC, r/w. section 3(i)(XII) SC/ST Act and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act and A5 was charged under sections 147, 341,

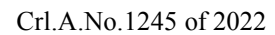


Crl.A.No.1245 of 2022

342, 348, 365, 376 IPC, r/w. section 3(i)(XII) SC/ST Act and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 and the case is now pending before the said court in S.C.No.59 of 2022.

3. The appellant, after surrendering himself before the Sessions Judge, Special Court for exclusive trial of cases registered under the scheduled castes and the scheduled tribes (Prevention of Atrocities) Act, 1989, Villupuram on 14.11.2022, filed a petition for bail in Crl.M.P.No.2285 of 2022 and the same was dismissed by the learned Sessions Judge, vide his order dated 23.11.2022. Against such dismissal, the appellant has filed the present appeal.

4. The learned counsel for the petitioner submitted that the petitioner is A1 in Crime No.887 of 2011. After investigation, final report has been filed and now the case is pending trial in S.C.No.59 of 2022. He further contended that in respect of A1/appellant, there is no specific charge for the offence punishable under section 376 IPC. The charge against this petitioner



5. He would further contend that the petitioner is Inspector of Police and he is under suspension and there is no chance for escaping from the place and evading trial. The petitioner has been in judicial custody from 14.11.2022. Thus he pleaded to grant bail to the appellant.

5 of 11



Crl.A.No.1245 of 2022

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7. The learned Govt. Advocate (crl.side) submitted that except this appellant/A1, the remaining accused were already enlarged on bail. Before the trial court, the case is now posted for furnishing copies under section 207 Cr.P.C. , and the case is ripe for trial.

8. I have considered the arguments advanced on both sides and perused the materials available on record.

9. On perusal of records, it is revealed that the appellant is A1 in Cr.No.887 of 2011 registered by the first respondent police and after investigation, final report has been filed and the same is now pending in S.C.No.59 of 2022 on the file of Special Court for Exclusive Trial of Cases registered under SC/ST Act, Villupuam. Further on perusal of records, it is revealed that against this appellant, the charges are framed only under sections 147, 166, 323, 341, 342, 348, 365 IPC, r/w.3(i)(XII) SC/ST Act and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act and there



Crl.A.No.1245 of 2022

is no charge against this appellant for the offence under section 376(2) IPC.

Further the remaining accused 2 to 5 were already enlarged on bail and this appellant alone has been kept in judicial custody from 14.11.2022. The petitioner is working as an Inspector of Police and till his suspension, there is no chance for evading the trial. Further, the submission of the defacto complainant counsel that the appellant will threaten the witnesses and other prosecution witnesses of the complainant is only an apprehension and the same is not supported by any materials.

10. The appellant has been working as an Inspector of Police till his suspension and he was not charged with the provisions of serious offence under section 376 IPC. The allegation of the prosecution is that he provided his jeep for taking the victim. In the circumstances, considering the nature of the offence alleged coupled with the fact that on completion of investigation, case is pending before the Sessions Judge, Special Court for exclusive Trial of cases registered under the Scheduled Castes and Scheduled Tribes (POA) Act, 1989, Villupuram and the same has been ripe for trial, I am inclined to



grant bail to the petitioner on the following conditions.

11. Accordingly, the appellant is ordered to be released on bail on the following conditions:-

- (i) The appellant shall execute a bond for a sum of Rs.25,000/- (rupees twenty five thousand only), with two sureties, each for a like sum to the satisfaction of the Sessions Judge, Special Court for exclusive Trial of cases registered under the Scheduled Castes and Scheduled Tribes (POA) Act, 1989, Villupuram.
- (ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhaar card or Bank pass Book to ensure their identity; and
- (iii) The appellant shall appear before the trial Court as and when required by the trial court without fail.

12. In the result,

- (i) the Criminal Appeal is allowed in the above terms;
- (ii) the impugned order passed in Crl.M.P.No.2285 of 2022 by



Crl.A.No.1245 of 2022

Sessions Judge, Special Court for exclusive Trial of cases registered under the Scheduled Castes and Scheduled Tribes (POA) Act, 1989, Villupuram is set aside.

02.01.2023

Index:yes/no
Internet:yes/no
msr

To

- 1.The Sessions Judge, Special Court for exclusive Trial of cases registered under the Scheduled Castes and Scheduled Tribes (POA) Act, 1989, Villupuram.
2. The Station House Officer, Thirukoilur Police Station, Villupuram District.
3. The Deputy Superintendent of Police, District Crim Branch-I, Villupuram District. Chennai.
4. The Superintendent, District Jail, Vedampattu, Villupuram District.
5. The Public Prosecutor, High Court, Madras.

Note: Issue copy on 3.1.2023



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Crl.A.No.1245 of 2022

V.SIVAGNANAM, J.

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Crl.A.No.1245 of 2022

Crl.M.P.No.19912 of 2022
in Crl.R.C.No.1693 of 2022

02.01.2023