



Crl.A.No.1284 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.1284 of 2023

1.Deepak
2.Ragul @ Sri Ragul

... Appellants

Vs.

1.The Deputy Superintendent of Police,
Velur Sub Division,
Jedarpalayam,
Namakkal District.

2.The Inspector of Police,
Jedarpalayam Police Station,
Namakkal District.
(Crime No.48/2023).

3.Muthusamy
4.Sukkiram Nishanth
5.Yashwanth Nishanth
6.Gokul Sithaar

... Respondents

PRAYER: Criminal Appeal is filed under Section 14A(2) of Scheduled Castes and Scheduled Tribes [Prevention of Atrocities] Amendment Act,



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2015, to set aside the order passed in C.M.P.No.451 of 2023 dated 03.11.2023 on the file of the Sessions Judge, Special Court for SC/ST [POA] Act, Namakkal and enlarge the appellants on bail pending in Crime No.48 of 2023 on the file of the second respondent police.

For Appellants	:	Mr.W.Camyles Gandhi
For R1 & R2	:	Mr.A.Damodaran, Additional Public Prosecutor
For R4 to R6	:	Mr.K.S.Sathiachandran Legal Aid Counsel

JUDGMENT

The appellants who are A3 and A5 in Crime No.48 of 2023 filed a bail application in C.M.P.No.451 of 2023 before the learned Sessions Judge, Special Court for SC/ST [POA] Act, Namakkal and the same was dismissed by order dated 03.11.2023. Against which, the present appeal is filed.

2.The respondents 4 to 6 failed to appear before this Court, private notice sent was also returned within an endorsement 'Addressee moved out'



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and the names of the respondents printed in the cause list. Since all the efforts went in vein, this Court appointed Mr.S.Sathia Chandran, as Legal Aid Counsel for the respondents 4 to 6 by order dated 27.11.2023.

3.The gist of the complaint is that on 14.05.2023 at about 11.30 hours one Muthusamy, owner of M.G.R. Jaggery Factory lodged a complaint to the respondent police stating that on 13.05.2023 during midnight he received an information from Parameswaran that unknown persons trespassed into the workers shed and set fire using kerosene. In the shed, one Sukkiram, Yashwanth, Gokul Sithaar and Rajesh were staying who belong to North India and for the purpose of employment, they were staying in the defacto complainant's Sugarcane Unit. Due to setting of fire in the shed, the appellant's employees got injured and they were admitted in the Government Hospital, Namakkal. Based on the complaint, a case in Crime No.48 of 2023 registered for the offence under Sections 448, 436 and 307 IPC. The Investigating Officer took up the investigation, went to the scene of occurrence, prepared rough sketch and observation mahazar in the presence of the witnesses. Further, the Investigating Officer collected the



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materials and also sent for forensic examination. In the meanwhile, the then Investigating Officer was transferred and a new Investigating Officer took up the investigation on 16.05.2023. On 17.05.2023, one Rajesh who is one among the four who were injured in the fire died in the Government Hospital during treatment. Thereafter, case was altered to the offence under Sections 449, 436, 307 and 302 of IPC.

4. During the course of investigation, on 07.09.2023 the accused Sivaraj/A1 and Vijay/A2 voluntarily surrendered before the Village Administrative Officer, Anangur and gave a confession that MGR Jaggery Factory engaged North Indians and to force North Indians leave the place, they decided to pelt petrol bombs. Pursuant to the same, all the five accused including the appellants assembled at Erikarai situated 2 kms from Vadagaraiyathur on the night of 13.05.2023, made petrol bomb by filling petrol in four plastic water bottles and using cotton cloth, lit it with fire and thrown it on the shed where workers were staying causing explosion and thereby all the accused committed the above offence. The confession of A1 and A2 clearly states about the overt acts of the appellants, who are arrayed



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as A3 and A5. During investigation, it was revealed that one Sankaran @ Ravishankar, who was working in a Jaggery Factory committed rape and murder of one Nithya of Karapalayam Village and in order to take revenge for the murder of the said Nithya, these accused persons committed the offence. It was further found that the deceased Nithya belong to Vetagounder community and the said Sankaran @ Ravishankar belongs to lower community and communal angle was given. The appellants were arrested on 09.09.2023 who were earlier arrested in some other case and lodged in Central Prison, Salem and they were taken custody by way of P.T. Warrant and during their custody, they gave confession statement, based on which articles were recovered in this case. A4 is still absconding and the investigation is at the crucial stage. During investigation, it came to know that the deceased belong to Keuta Scheduled community, the other injured persons belongs to Gond caste Scheduled Tribe and the accused persons belong to Most Backward Community. Based on these facts, case was further altered to offence under Section 147, 148, 449, 436, 307, 302 r/w. 120(b) of IPC, Sections 3(2)(v), 3(2)(va) of SC and ST [POA] Act and Section 3 of Explosive Substances Act, 1908. The present Investigating



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Officer took up the investigation on 01.10.2023, recorded the statement of witnesses and collected the community certificate of both the parties. Further, in order to complete the investigation and to secure A4/Pradeesh @ Sakthivel, sanction order to be obtained from the District Collector and hence, the investigation is pending.

5.The contention of the learned counsel for the appellants is that the appellants were falsely implicated in this case. He would submit that the appellants were opposing the cause of brutal rape and murder committed to Nithya who belonged to their community. The appellants agitated over the same, made complaints to the Police and higher officials and for their inaction, they also conducted road roko and other forms of protest. The respondent police found agitated on the action of the appellants and waiting for the right time to implicate the appellants in a false case. It is seen that on the appellants' agitation, case in Crime No.20 of 2023 was transferred to CBCID and in that case, Sankaran @ Ravishankar was arrested and later released on bail. He would submit that several cases were foisted against the appellants at the time of their agitation seeking justice to Nithya. Cases



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in Crime Nos.26 of 2023, 32/2023, 48/2023 and 50/2023 were registered against the appellants. The appellants were arrested in Crime No.32 of 2023 on 02.09.2023 and 12 days thereafter, they were shown arrest in Crime No.48 of 2023. Apart from these cases, the respondent police registered a case in Crime Nos.64/2023, 68/2023, 69/2023, 103/2023 and 104/2023 as though the appellants caused damage to public property and also caused obstruction for the public servants and other offences. He would further submit that the respondent police as well as the Lower Court failed to look into the fact that a brutal rape and murder committed on the said Nithya for which the appellants and others in the Village were fighting seeking for justice. He further submitted that for the accidental fire the appellants cannot be the reason and cause and only based on the confession, the appellants were falsely implicated.

6.The learned Additional Public Prosecutor submitted that the appellants along with three others are the persons who set fire to the shed in which the North Indian workers were staying in the Jaggery factory of the defacto complainant. Learned APP filed a counter in which it is as follows:



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“7.It is submitted that during the course of investigation on 07.09.2023, the accused Sivaraj/A1 and Vijay/A2 surrendered before the Village Administrative Officer, Anangur and then they were arrested by the respondent police and recorded their confession statement in which A1 and A2 stated that MGR Jaggery Factory as it was engaging North Indians and thereby to cause North Indian leave the place and in pursuance of the same A1 took A2 and identified MGR Jaggery Factory and instructed him as to how they should come and attack by pelting petrol bombs and in pursuance of the same all the 5 accused assembled at Erikarai situated at the 2 kilometer from Vadagaraiyathur at Vadakaraithoor to Kalipalayam Road on the night of 13.05.2023 and made petrol bomb by filling petrol in four plastic water bottles and using cotton cloth [wound Bandage cotton cloth] put lead to lit fire it cause mischief to the workers shed and murder of the workers by fire and explosion, thereby all the accused committed an offence based on the confession relevant properties were recovered in Mahazar and produced them before the learned Judicial Magistrate Court, Paramathi and remanded them into judicial custody. Based on their confession, the overtact of the petitioners/A3/Deepak, A5/Ragul @ Raghul lit fire to the lead of the said bombs



and threw them on the said inmates with intention to cause their death.

8.It is submitted that during the course of investigation, from the confession of A1 and A2 it reveals that one Sankaran @ Ravishankar, who was working in a Jaggery Factory committed rape and murder of one Nithya of Karapalayam Village, in order to take revenge for the murder of the said Nithya, the accused persons committed their offences. A3/Deepak, A4/Pradeesh @ Sakthivel, A5/Sriraghul @ Ragul were arrayed as an accused.

9.It is submitted that during the course of investigation, on 09.09.2023, the Inspector of Police, Paramathi Circle formally arrested the accused A3 and A5 under P.T. Warrant at Central Prison, Salem and recorded their confession statement recovered relevant properties in Mahazar and remanded them into judicial custody. A4 is still absconding from the date of arrest of the accused A1, A2.

10.It is submitted that during the course of investigation, it reveals that the deceased belongs to “Keuta” Schedule Community and other injured person Gokul Sithar belongs to “Gond” Caster Schedule Tribe. The accused persons belongs to Most Backward Class and the accused persons to cause North Indians leave the place



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and in pursuance of the same, A1 took A2 and identified MGR Jaggery Factory. Then A2 broke the sugarcane mill door using stone and all the accused made a Petrol bomb by filling petrol in four palstice water bottles at Erikarai and assembled before the factory and trespassed into it and set fire on the workers shed which caused murder of one Rajesh and injury of others were belongs to North India.

11.It is submitted that based on the confession of accused persons, on 29.09.2023, the Inspector of Police, Paramathy Circle altered the offences from u/s.449, 436, 307, 302 IPC @ to u/s.147, 148, 449, 436, 307, 302 r/w. 120(b) of IPC, Sections 3(2)(v), 3(2)(va) of SC and ST [POA] Act and Section 3 of Explosive Substances Act, 1908.

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14.It is submitted that apart from this case, the petitioners/accused [A3 and A5] is involved in following cases:

S.No.	Police Station, Crime Number, Offences under Section	Stage of the Case
1.	Jedarpalayam Police Station Cr.No.26/2023 u/s.147, 148, 337, 436, 286, 153(A), (1), (b), 506(ii), 120(b), 149 IPC r/w. 4 of TNPPDL Act 1992 and Section 3 of Explosive Substance Act	Under Investigation
2.	Jedarpalayam Police Station Cr.No.50/2023	Not taken on file



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S.No.	Police Station, Crime Number, Offences under Section	Stage of the Case
	u/s.447, 435 IPC & 4 of TNPPDL Act	
3.	Jedarpalayam Police Station Cr.No.32/2023 u/s.436 IPC	Under Investigation
4.	Jedarpalayam Police Sttion Cr.No.33/2023 u/s. 436 r/w. 511 IPC	Under Investigation

7.Learned Additional Public Prosecutor further submitted that due to the act of the appellants, the situation therein has become explosive and further clash between two groups is imminent. He would submit that special police team have been posted and the respondent police are working overtime to maintain peace and harmony. Apart from the above case, 14 cases were registered against the appellants. He further submitted that investigation is at the crucial stage and A4 in this case is still absconding. He would further submit that if appellants are granted bail, situation would become explosive and possibility of securing A4 would becoem difficult. Hence, he strongly opposed this appeal.

8.Mr.S.Sathiachandran, learned counsel for the respondents 4 to 6 submitted that in this case the deceased belonged to Scheduled Caste



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community, R6 belonged to Scheduled Tribe community, R4 to R6 and the deceased Rajesh hails from North India who had come seeking employment and they got nothing to do with the case in Crime No.20 of 2023. He would submit the appellants who claim community pride, to take revenge had thrown petrol bombs using plastic bottles filled with petrol knowing well that R3 to R6 are staying there, set fire and further locked the door from outside and allowing them not to escape. Finally all of them broke open the door, sustained serious injuries but for the timely treatment all could have died, unfortunately Rajesh succumbed to burn injuries. He further submitted that in this case A4 is still absconding and if the appellants are let out on bail, investigation would get throttled. He would further submit that R4 to R6 hails from North India, they are with minimum education and they were not aware about the solatium they are entitled to receive under SC/ST Act. In this case, the deceased Rajesh since died is entitled for 50% of the compensation amount and R6 is also entitled for compensation amount. He further submitted that steps may be taken by the Investigating Officer to get the amount sanctioned and disburse the same to the family of the deceased as well as to R6 and to inform them about their entitlement.



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9.Considering the submissions made and on perusal of the materials, this Court finds that investigation is at the crucial stage. Further A4 is still absconding and also finding that innocent persons, namely, the deceased and R4 to R6 who have got nothing to do with Crime No.20 of 2023 and who had come seeking livelihood were made to fry in the fire for the communal pride of the appellants, this Court is of the opinion that granting of bail to the appellants would not be in the interest of justice.

10.Accordingly, the Criminal Appeal stands dismissed.

11.This Court appreciates Mr.S.Sathia Chandran, appointed as legal aid counsel for the respondents 4 to 6 in rendering his sincere efforts in this regard.

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Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
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M.NIRMAL KUMAR, J.

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To

- 1.The Deputy Superintendent of Police,
Velur Sub Division,
Jedarpalayam, Namakkal District.
- 2.The Inspector of Police,
Jedarpalayam Police Station,
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- 3.The Sessions Judge,
Special Court for SC/ST [POA] Act,
Namakkal.
- 4.The Public Prosecutor,
High Court, Madras.

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