



Crl.A.No.1404 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.1404 of 2023

Kolanchiyappan @ Konlanjinathan

... Appellant

Vs.

1.The Deputy Superintendent of Police,
Ariyalur,
Ariyalur District.

2.State by
Inspector of Police,
T.Palur Police Station,
Ariyalur District.
(Crime No.278/2023).

3.Sathriyan @ Chathiriyar

... Respondents

PRAYER: Criminal Appeal is filed under Section 14A of Scheduled Castes and Scheduled Tribes Amendment Act, 2015, to set aside the order passed by the learned Principal Sessions Judge, Ariyalur in Crl.M.P.No.3706 of



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2023 dated 20.11.2023 on the file of the Inspector of Police, T.Palur Police Station, Ariyalur District.

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For Appellant : Mr.K.Balu
For R1 & R2 : Mr.A.Damodaran,
Additional Public Prosecutor

JUDGMENT

This Criminal Appeal has been filed to set aside the impugned order in Crl.M.P.No.3706 of 2023, dated 20.11.2023 passed by the learned Principal Sessions Judge, Ariyalur and enlarge the appellant on bail in connection with Crime No.278 of 2023 on the file of the 2nd respondent Police and pending investigation.

2.The appellant was arrested in Crime No.278 of 2023 by the Inspector of Police, T.Palur Police Station for the offence under Sections 147, 294(b), 323, 355, 506(ii) IPC r/w. Sections 3(1)(r&s), 3(2)(va) of SC/ST Act, 1989, on 29.10.2023.



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3.The case against the appellant is that the defacto complainant, who is a Class XI student on 12.10.2023 at about 5.30 p.m., when he was coming back from School he saw his cow grazing near the Pond and he let the same to his house and at that time, his brother was also with him. The appellant abused the defacto complainant and his brother by calling upon their caste and questioned them as to how they can let their cow near the common pond and threatened them. At that time, the appellant was found to be in drunken state, the defacto complainant questioned him as to why he is abusing him and his brother, for which the appellant using the stick had beaten them. Along with the appellant, his wife, son and five others assaulted the defacto complainant and his brother. The defacto complainant unable to bear the pain took treatment as inpatient in the Government Hospital and later complaint was lodged to the respondent police.

4.The contention of the learned counsel for the appellant is that on 12.10.2023 at about 3.00 p.m. when the appellant was at his house, the defacto complainant's cow grazed all the flowering plants and other plants in the garden. The appellant tied the cow, the defacto complainant and his



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younger brother came there, the appellant called them, handed over the cow to them and questioned as to why they cannot let their cow to graze in a common place and allowed the cow to enter into the house and caused destruction to the plants. This being so, on 13.10.2023 at about 6.00 a.m., the defacto complainant and his family member went to the appellant's house, questioned him of tying their cow and abused him in filthy language and there was also exchange of heated words. Thereafter, the appellant lodged a complaint to the respondent, C.S.R.No.867 of 2023 was assigned on 13.10.2023 at about 1200 noon. FIR was registered on 29.10.2023 in Crime No.277 of 2023 for the offence under Sections 294(4), 324, 506(ii) of IPC r/w. Section 4 of Tamil Nadu Prohibition of Harassment of Women Act against the defacto complainant, his brother, his father and his uncle. On coming to know about the appellant lodging a complaint against the defacto complainant's family, as a counter blast to save themselves a false case has been lodged against the appellant. He would submit that the defacto complainant's father was arrested along with the appellant on 29.10.2023 but he was released on bail. Since the appellant was implicated for the offence under SC/ST Act, he filed a bail application before the Special



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Court which was dismissed on the intervention of the defacto complainant.

Hence the present appeal is filed. He further submitted that the appellant is in prison from 29.10.2023.

5.The learned Additional Public Prosecutor appearing for the respondents 1 and 2 vehemently opposed the present bail application stating that it is a case in counter. The dispute is with regard to grazing of plants by the defacto complainant's cow. The appellant tied the defacto complainant's cow in his field alleging that the cow had grazed the plants and caused damage. The appellant abused the defacto complainant and his younger brother for not properly having the cow to graze within the colony and allowing it to move freely. At that time, the petitioner used prohibitory words calling upon the defacto complainant and his brother using the caste name and assaulted them. Hence, a case was registered, both the complaint of the appellant and the defacto complainant are being investigated by the Police and soon final report to be filed. He further submitted that the defacto complainant's father was arrested and released on bail in the counter case filed by the appellant.



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6.Private notice was ordered to the 3rd respondent/defacto complainant on 30.11.2023 and it was served on 09.12.2023. Despite the same, there is no representation on behalf of the 3rd respondent. Hence, notice was served to the 3rd respondent through Police which was served on the 3rd respondent on 11.12.2023 informing about the pendency of the above appeal. Despite printing his name in the cause list, no representation for the 3rd respondent either in person or by any counsel.

7.Considering the submissions and on perusal of the materials, it is seen that it is a case in counter and the appellant is in prison from 29.10.2023. Taking into consideration of the period of incarceration of the appellant, above, 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) with two sureties each for a like sum to the satisfaction of the learned Principal Sessions Judge, Ariyalur.

(ii)the sureties shall affix their photographs and Left Thumb



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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 2nd respondent Police as and when required by the Police.

(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]***;



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

9.In view of the above, the impugned order in Crl.M.P.No.3706 of 2023, dated 20.11.2023 passed by the learned Principal Sessions Judge, Ariyalur is set-aside and the Criminal Appeal is, accordingly, allowed.

12.12.2023

Index: Yes/No
Internet: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
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Note: Issue Order Copy on 15.12.2023.



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To

- 1.The Deputy Superintendent of Police,
Ariyalur,
Ariyalur District.
- 2.The Inspector of Police,
T.Palur Police Station,
Ariyalur District.
- 3.The Sub Jail,
Jayamkondam.
- 4.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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