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Crl.A.No.1444 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.1444 of 2023

Rajesh,  
S/o.Periannan

... Appellant

Vs.

1.The Deputy Superintendent of Police,  
Cherry Road,  
Salem District.

2.The State by the Sub Inspector of Police,  
Tholasampatty Post Police Station,  
Salem District.  
(Crime No.222/2023).

3.Arumugam

... Respondents

Prayer: Criminal Appeal filed under Section 14A(2) of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989, to set aside the order dated 24.11.2023 on the file of the Principal Sessions Court, (FAC) I Additional Sessions Court, Salem in Criminal M.P.No.3460 of 2023 and consequently enlarge the appellant on bail in Crime No.222 of 2023 pending investigation on the file of the 1<sup>st</sup> respondent.

For Appellant : Mr.T.Sai Krishnan

For Respondent : Mr.A.Damodaran,  
Additional Public Prosecutor



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ORDER

This Criminal Appeal has been filed to set aside the impugned order in Crl.M.P.No.3460 of 2023, dated 24.11.2023 passed by the learned Principal Sessions Judge, Salem and enlarge the appellant on bail in connection with Crime No.222 of 2023 on the file of the 2<sup>nd</sup> respondent Police Station.

2.The appellant/A1 is an accused in Crime No.222 of 2023 for offence under Sections 147, 148, 294(b) & 324 IPC and Sections 3(1)(r), 3(1)(s) & 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015. The appellant filed a bail application before the learned Principal Sessions Judge, Salem in Crl.M.P.No.3460 of 2023 and the same was dismissed *vide* impugned order, dated 24.11.2023. Aggrieved over the same, the present Criminal Appeal is filed.

3.This Court *vide* order, dated 01.12.2023 directed the learned counsel for the appellant to take private notice to the defacto complainant/3<sup>rd</sup> respondent since one of the offence the petitioner is facing is under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act,



1989. Private notice taken to the 3<sup>rd</sup> respondent but he was not available and information about the notice was given. On 01.12.2023, this Court also directed the learned Additional Public Prosecutor to inform the 3<sup>rd</sup> respondent about the pendency of the present Criminal Appeal through the 2<sup>nd</sup> respondent Police and the 2<sup>nd</sup> respondent had caused notice to the 3<sup>rd</sup> respondent on 09.12.2023, for which, proof of the same has been produced. Despite the same, no representation for the 3<sup>rd</sup> respondent today either in person or by any counsel.

4.The gist of the case is that the 3<sup>rd</sup> respondent lodged a complaint to the 2<sup>nd</sup> respondent Police on 13.11.2023 when he was taking treatment as inpatient in Government Hospital, Omalur. The complaint is that on 12.11.2023, at about 09.30 p.m., the appellant along with six others had gone to the 3<sup>rd</sup> respondent's area questioned about missing of gold chain of one Ragul/A3. At that time, there was wordy quarrel which ensued into scuffle between the appellant/A1, other persons/A2 to A7 and 3<sup>rd</sup> respondent. The appellant group is said to have assaulted the 3<sup>rd</sup> respondent, his uncle Vijayakumar using bear bottle, knife, stick and also



abused them by using caste name. The allegation against the appellant is that the appellant brought the other persons/A2 to A7, created a fight and caused injuries to the 3<sup>rd</sup> respondent. Hence, on the complaint of the 3<sup>rd</sup> respondent, a case in Crime No.222 of 2023 registered against the appellant and six others for offence under Sections 147, 148, 294(b) & 324 IPC and Sections 3(1)(r), 3(1)(s) & 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

5.The learned counsel for the appellant submitted that it is a case in counter. Prior to this incident, Ragul, who is A3 in this case, was proceeding in his motor bike on 12.11.2023 near the 3<sup>rd</sup> respondent's house, at that time, they were bursting crackers in the road. Because of crackers burst the said Ragul/A3, A3 stopped his vehicle, questioned the same, at that time, there was a fight and A3 pushed down the 3<sup>rd</sup> respondent and the gold chain of A3 was found missing. Further, the said Ragul/A3 was beaten badly and he was taken to the Government Hospital, Omalur and took treatment as inpatient. The said Ragul/A3 lodged a complaint and the case in Crime No.223 of 2023 was registered against Arun, Vettri and Vimal.



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The contention of the appellant is that the 2<sup>nd</sup> respondent Police deliberately registered the later complaint earlier and projected as though the appellant and others are aggressors. In fact on going through both FIRs, it is seen that in Crime No.223 of 2023, the occurrence is said to have taken place at about 08.00 hours and the information was received by the Police at about 10.00 hours on 13.11.2023 and in the present case, the occurrence is said to have taken place at about 09.30 hours and the complaint lodged at the same time. He further submitted that admittedly, the appellant and the 3<sup>rd</sup> respondent are neighbours, residing in the same area and they know social status of each other. Such being the position, there is no necessity for the appellant to use abusive words calling the 3<sup>rd</sup> respondent by caste name. It is a fight with regard to missing of gold chain which ensued into scuffle. He further submitted that in the counter case though the said Ragul/A3 had been admitted and taken treatment as inpatient, none from the 3<sup>rd</sup> respondent's group had been taken into custody by the 2<sup>nd</sup> respondent Police.

6.The learned Additional Public Prosecutor appearing for the respondents 1 and 2 submitted that it is a case in counter and investigation in both the cases are in progress. The injured in both the cases have now



been discharged from the hospital. He further submitted that it was a fight on the day of Deepavali due to bursting of crackers in the road which ensued into scuffle and exchange of blows between the appellant group and the 3<sup>rd</sup> respondent group. Now, steps have been taken to apprehend the accused in the counter case.

7.Considering the submissions and on perusal of the materials, it is seen that a fight has been ensued between two groups on the day of Deepavali in bursting crackers in the road which led to scuffle and exchange of blows. It is an admitted fact that the appellant and the 3<sup>rd</sup> respondent are residing in the same locality as neighbours and they have been living in harmony for all these years. But for the dispute in bursting crackers on Deepavali, this fight would not have arisen.

8.In view of the 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 District and Sessions Judge, Salem.

(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 2<sup>nd</sup> respondent Police daily at 10.30 a.m., for a period of two weeks and thereafter as and when required by the Police.

(iv)The appellant shall not give any inconvenience or trouble knowingly or unknowingly to the 3<sup>rd</sup> 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



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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.

9.In view of the above, the impugned order in Crl.M.P.No.3460 of 2023, dated 24.11.2023 passed by the learned Principal Sessions Judge, Salem is set aside and the Criminal Appeal is, accordingly, allowed.

13.12.2023

Index : Yes/No  
Speaking Order/Non Speaking Order  
Neutral Citation: Yes/No  
Internet: Yes/No

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Note: Issue Order Copy on 14.12.2023.

To



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Salem.
- 2.The Deputy Superintendent of Police,  
Cherry Road,  
Salem District.
- 3.The Sub Inspector of Police,  
Tholasampatty Post Police Station,  
Salem District.
- 4.The Sub Jail,  
Omalur.
- 5.The Public Prosecutor,  
High Court, Madras.



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M.NIRMAL KUMAR, J.

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