



CRL.A(MD)No.122 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 15.02.2023

CORAM

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

Crl.A(MD)No.122 of 2023

Boopalakrishnan

... Appellant

Vs.

1.The Deputy Superintendent of Police,
Andipatty Sub Division,
Andipatty,
Theni District.

2.The Inspector of Police,
Gandamanur Vilaku Police Station,
Theni District.

3.Mathan Srinath

... Respondents

Prayer: This Criminal Appeal has been filed under Section 14 (A) (2) SC/ST (POA) Act, to set aside the order dated 08.02.2023 made in Crl.M.P.No.176 of 2023 in Crime No.15 of 2023 on the file of the learned Sessions Judge, Special Court for Trial of the cases under SC/ST (POA) Act, Theni and enlarge the petitioner on bail.

For Appellant	: Mr.C.Jeganathan
For Respondents	: Mr.B.Nambiselvan
	Additional Public Prosecutor
	for R1 and R2
	Mr.C.Kathiravan
	Legal Aid counsel for R3



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JUDGMENT

WEB COPY This Criminal Appeal has been filed to set aside the order dated 08.02.2023 made in CrI.M.P.No.176 of 2023 in Crime No.15 of 2023 on the file of the learned Sessions Judge, Special Court for Trial of the cases under SC/ST (POA) Act, Theni and enlarge the petitioner on bail.

2. Today, when the matter is taken up for hearing, this Court appointed the learned counsel Mr.C.Kathiravan, on behalf of the defacto complainant/third respondent and the third respondent is present before this Court.

3. The case of the prosecution is narrated in FIR is that two weeks prior to the date of occurrence, the accused 1 and 2 travelled in two wheeler along with some load of agricultural products. The defacto complainant/third respondent was hit by the above said persons, over which, he made objection and in reply, the above said persons abused him. The above said teasing was also continued on 17.01.2023 at about 04.00 p.m., when the defacto complainant went to the land, the accused persons again teased by calling him by his caste name, assaulted him and pushed down and caused injuries. At the intervention of the neighbours, the accused persons sped away from the occurrence place and thereafter,



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the defacto complainant filed a complaint before the respondent police and the second respondent registered the case in Crime No.15 of 2023 for the offence under Sections 294(b), 323, 506(i) of IPC r/w Section 3(i) (r), 3(i)(s) and 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amended Act 2015.

4. The learned counsel for the appellant submitted that based on the complaint given by the petitioner, counter complaint also registered against the defacto complainant in Crime No.16 of 2023 on the file of the second respondent police for the offences under Sections 294(b), 323 and 506(i) of IPC. He would further submit that the appellant is in custody from 19.01.2023.

5. Mr.B.Nambiselvan, learned Additional Public Prosecutor appearing for the respondents 1 and 2 submitted that it is a case in counter case and also submitted that no previous case is pending against the appellant.

6. Heard the learned counsel for the defacto complainant/third respondent.



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7. Reading of the First Information Report shows that over a petty issue, trouble arose between them and in turn it is stated that the defacto complainant, who is the second respondent herein abused the appellant and also assaulted him. The appellant and the defacto complainant are living in the same village.

8. Considering the above facts and circumstances of the case, the antecedents of the appellant, considering the period of incarceration and also of the fact that it is a case in counter, this Court is inclined to allow the Criminal Appeal by setting aside the order, dated 08.02.2023 made in CrI.M.P.No.176 of 2023 on the file of the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Theni.

9. Accordingly, the Criminal Appeal is allowed and the order dated 08.02.2023 made in CrI.M.P.No.176 of 2023 on the file of the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Theni, is set aside. The appellant is ordered to be released on bail on her executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the Special Court for Trial of Cases under SC/ST (POA) Act, Theni, and on further conditions that:



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[a]the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Sessions Judge may obtain a copy of their valid identity card to ensure their identity.

[b]the appellant shall report before the respondent police daily at 10:30 a.m., until further orders.

[c]the appellant shall not tamper with evidence or witness either during investigation or trial.

[d]the appellant shall co-operate with the investigation.

[e]On breach of any of the aforesaid conditions, the learned Sessions Judge/Trial Court is entitled to take appropriate action against the appellants in accordance with law as if the conditions have been imposed and the appellants released on bail by the learned Sessions Judge/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

15.12.2023

Index : Yes / No
Internet : Yes/ No
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(Note :- Issue order copy on 15.02.2023)



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WEB COPY **To:**

- 1.The Superintendent,
Central Prison,
Theni.
- 2.The Deputy Superintendent of Police,
Andipatty Sub Division,
Andipatty,
Theni District.
- 3.The Inspector of Police,
Gandamanur Vilaku Police Station,
Theni District.
- 4.The Session Judge, Special Court for trial of the cases under
SC/ST (POA) Act,
Theni.



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G.ILANGOVAN,J

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