



Crl. A.(MD)No.241 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 12.04.2023

CORAM

THE HONOURABLE MR. JUSTICE K.MURALI SHANKAR

Crl. A.(MD)No.241 of 2023

Esakkimuthu @ Raja

... Petitioner/Sole Accused

Vs.

1.State represented by
The Deputy Superintendent of Police,
O/o. Deputy Superintendent of Police,
Thalaiyuthu,
Thirunelveli District.

2.State represented by
The Sub Inspector of Police,
Thalaiyuthu Police Station,
Thirunelveli District.
(Crime No.144 of 2021)

3.Selvam

... Respondents/Respondents

Prayer : This Criminal Appeal is filed under Section 14(A)(2) of SC/ST (Amendment Act) of 2014, to call for the records pertaining to the order passed by the learned II Additional Sessions Judge (PCR), Thirunelveli in Cr.M.P.No.514 of 2023 dated 22.02.2023 and to set aside the same and to



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enlarge the appellant on bail in Crime No.144 of 2021 on the file of the respondent police and pass appropriate orders.

For Appellant : Mr.R.Rajesh Kumar
For R1 & R2 : Mr.A.Albert James
Government Advocate (Crl. Side)
For R3 : No appearance

JUDGMENT

This Criminal Appeal is directed against the order passed in Cr.M.P.No.514 of 2023 dated 22.02.2023 by the learned II Additional Sessions Judge (PCR), Thirunelveli.

2. The case of the prosecution is that on 05.05.2021 at about 05.00 p.m., the appellant had abused the third respondent/defacto complainant by using obscene words and his caste name and attacked him with sword and also criminally intimidated him. Hence, the second respondent registered a case against the appellant in Crime No.144 of 2021 for the offences under Sections 294(b), 307 and 506(2) IPC and Sections 3(l)(r), 3(l)(s) and 3(2)(va) of SC/ST (Prevention of Atrocities) Act, 1989.



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3. It is pertinent to note that the third respondent, after receiving the Court notice, has appeared before this Court on 06.04.2023 and got time for engaging a counsel and the case was adjourned to 11.04.2023. When the matter was taken up for hearing on 11.04.2023, there was no representation for the third respondent and he was called absent and the case stands posted on 12.04.2023 (today) finally. When the matter is taken up for hearing today, there is no representation for the third respondent and the third respondent is called absent.

4. The learned counsel appearing for the appellant would submit that the appellant is innocent and he has not committed any offence as alleged by the prosecution and that the respondent police has falsely implicated the appellant in this case only for the reason that there was previous enmity. He would further submit that no one was injured in the incident.

5. The learned Government Advocate (Criminal Side) appearing for the respondents 1 and 2 would submit that the appellant is having 14 previous cases, in which, 6 cases were already disposed of. He would further submit that in the murder case pending against the appellant, already 6 witnesses were examined and that the present case stands posted for framing of charges on



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17.04.2023 on the file of the II Additional District and Sessions Court (PCR),

Tirunelveli.

6. Considering the above facts and circumstances and also the facts that the appellant is in custody from 18.11.2022 and that no one was injured in the incident, this Court is inclined to allow the Criminal Appeal by setting aside the order, dated 22.02.2023 made in Crl.M.P.No.514 of 2023 on the file of the learned II Additional District and Sessions Judge (PCR), Tirunelveli.

7. Accordingly, the Criminal Appeal is allowed and the order, dated 22.02.2023 made in Crl.M.P.No.514 of 2023 on the file of the learned II Additional District and Sessions Judge (PCR), Tirunelveli, is set aside. The appellant is ordered to be released on bail on his executing 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 learned II Additional Sessions Judge, (PCR) Act Cases, Thirunelveli, and on further conditions that:

[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.



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[b]the appellant shall appear 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 appellant in accordance with law as if the conditions have been imposed and the appellant 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.

12.04.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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K.MURALI SHANKAR, J.

csn

To

- 1.The Superintendent,
Central Prison,
Madurai.
- 2.The II Additional Sessions Judge, (PCR) Act Cases,
Thirunelveli.
- 3.The Deputy Superintendent of Police,
O/o. Deputy Superintendent of Police,
Thalaiyuthu,
Thirunelveli District.
- 4.The Sub Inspector of Police,
Thalaiyuthu Police Station,
Thirunelveli District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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