

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 06.04.2023

CORAM

THE HONOURABLE MR. JUSTICE K.MURALI SHANKAR

Crl. A.(MD)No.224 of 2023

Balamurugan

... Appellant/Petitioner &
2nd Accused

Vs.

1.The State represented by its
The Deputy Superintendent of Police,
Aundipatti Sub Division,
Theni District.

2.The Inspector of Police,
Vaigaidam Police Station,
Theni District.
(Crime No.4 of 2023)

... Respondents 1 and 2/
Respondents & Complainants

3.Ajithukumar

4.Srirengan

... 3rd & 4th Respondents/
Complainants & Victim

Prayer : This Criminal Appeal is filed under Section 14A(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, to call for the entire records relating to the order dated 15.03.2023 passed in Cr.M.P.No.389 of 2023 in Crime No.4 of 2023 on the file of the Special Court for trial of cases under SC/ST (POA) Act, Theni and set aside

the same as arbitrary and consequently to release the petitioner on bail in connection with case in Crime No.4 of 2023 on the file of the second respondent police.

For Appellant	: Mr.N.Pragalathan
For R1 & R2	: Mr.R.Sivakumar Government Advocate (Crl. Side)
For R3	: M/s.C.Arokia Selvi Legal Aid Counsel

JUDGMENT

This Criminal Appeal is directed against the order passed in Crl.M.P.No.389 of 2023 dated 15.03.2023 by the learned Sessions Judge, Special Court for trial of cases under SC/ST (POA) Act, Theni.

2. The case of the prosecution is that on 17.01.2023, the appellant along with the first accused had attacked the third respondent/defacto complainant and the fourth respondent and abused them by using their caste name and criminally intimidated them and also slapped the third respondent with chappels. Hence, the third respondent registered a case against two persons including the appellant herein in Crime No.4 of 2023 for the offences

under Sections 294(b), 323, 355 and 506(2) IPC and Sections 3(l)(r), 3(l)(s) and 3(2)(va) of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

3. 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. He would further submit that in pursuance of the direction of this Court in Crl.O.P.(MD)No.1405 of 2023 dated 28.02.2023, the appellant has surrendered before the jurisdictional Court and the learned Sessions Judge, by accepting the surrender of the appellant, has remanded him to the judicial custody on 15.03.2023 and that the first accused was already granted bail by this Court in Crl.A.(MD)No.107 of 2023 dated 16.02.2023.

4. The learned counsel appearing for the third respondent has raised objections to grant bail to the appellant.

5. The learned Government Advocate (Criminal Side) appearing for the respondents 1 and 2 would submit that no one was injured in the incident and that the appellant is not having any previous cases.

6. Considering the above facts and circumstances and also the facts that the appellant is in judicial custody from 15.03.2023, that the appellant is not having any previous cases for similar offence or serious offence and that no one was injured in the incident, this Court is inclined to allow the Criminal Appeal by setting aside the order, dated 15.03.2023 made in Crl.M.P.No.389 of 2023 on the file of the learned Sessions Judge, Special Court for trial of cases under SC/ST (POA) Act, Theni.

7. Accordingly, the Criminal Appeal is allowed and the order dated 15.03.2023 made in Crl.M.P.No.389 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 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 Special Court for trial of cases under SC/ST (POA) Act, Theni, 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.

[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.

06.04.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
csm

K.MURALI SHANKAR, J.

csn

To

- 1.The Superintendent,
District Jail,
Thekkampatti, Theni, Theni District.
- 2.The Sessions Judge,
Special Court for trial of cases under SC/ST (POA) Act, Theni.
- 3.The Deputy Superintendent of Police,
Aundipatti Sub Division,
Theni District.
- 4.The Inspector of Police,
Vaigaidam Police Station,
Theni District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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