



Crl. A.(MD)No.232 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 29.03.2023

Delivered on : 31.03.2023

CORAM

THE HONOURABLE MR. JUSTICE K.MURALI SHANKAR

Crl. A.(MD)No.232 of 2023

Madasamy

... Appellant/
Accused No.4

Vs.

1.State through
The Deputy Superintendent of Police,
Kovilpatti Sub Division,
Thoothukudi District.

2.The Inspector of Police,
Kayathar Police Station,
Thoothukudi District.
(Crime No.374 of 2022)

...Respondents 1&2/
Complainant

3.Rajeshwari

...3rd Respondent/
Defacto
Complainant

Prayer : This Criminal Appeal is filed under Section 14A(2) of SC & ST (POA) Amendment Act, 2015, to call for the records relating to the impugned order passed in Crl.M.P.No.50 of 2023 dated 19.01.2023 on the file of the



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Special Court for trial of Cases under SC/ST (POA) Act, Thoothukudi (FAC), Thoothukudi District and set aside the same as illegal and arbitrary and enlarge the appellant/accused No.4 in Crime No.374 of 2022 on the file of the respondent on bail by allowing the appeal.

For Appellant : Mr.V.Kathirvelu, Senior Counsel
for Mr.K.Prabhu

For R1 & R2 : Mr.A.Albert James
Government Advocate (Crl. Side)

For R3 : Mr.K.C.Maniyarasu
Legal Aid Counsel

JUDGMENT

This Criminal Appeal has been filed to set aside the order passed by the learned Sessions Judge, Special Court for trial of cases under SC/ST (PoA) Act, Thoothukudi (FAC), in Crl.M.P.No.50 of 2023 dated 19.01.2023 and enlarge the appellant on bail in Crime No.374 of 2022.

2. The case of the prosecution is that on 04.10.2022 at about 07.30 p.m., the appellant/fourth accused along with the other accused had assembled unlawfully with deadly weapons and abused the third respondent/defacto complainant by using her caste name and attacked the third respondent's husband, namely, Azhagudurai and murdered him, who



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belonging to Scheduled Caste community and on the basis of the complaint given by the third respondent, FIR came to be registered in Crime No.374 of 2022 for the offences under Sections 147, 148, 294(b), 302 and 506(2) IPC, Section 4 of TN Prohibition of Harassment of Women Act, 2002 and Sections 3(1)(r), 3(1)(s) and 3(2)(v) of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

3. The learned Government Advocate (Criminal Side) appearing for the respondents 1 and 2 would submit that the appellant is having 17 previous cases, but all the cases were registered under Prohibition Act and that all the cases under Prohibition Act were already disposed of and the appellant is not having previous cases pending. He would further submit that the respondent, after completing the investigation, has already filed the final report and the case was taken on file in S.C.No.2 of 2023 and the same is pending on the file of the Special Court for trial of cases under SC/ST (PoA) Act, Thoothukudi.

4. The learned Senior Counsel appearing for the appellant would submit that all the other accused were secured, that there is specific overt act alleged against the third accused and that the other accused including the appellant are shown as the members of the unlawful assembly.



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

6. Considering the above facts and circumstances and also the facts that the appellant is in judicial custody from 07.12.2022 and that the appellant is not having pending previous cases, this Court is inclined to allow the Criminal Appeal by setting aside the order, dated 19.01.2023 made in Crl.M.P.No.50 of 2023 on the file of the Special Court for trial of Cases under SC/ST (POA) Act, Thoothukudi (FAC), Thoothukudi District.

7. Accordingly, the Criminal Appeal is allowed and the order dated 19.01.2023 made in Crl.M.P.No.50 of 2023 on the file of the Special Court for trial of Cases under SC/ST (POA) Act, Thoothukudi (FAC), Thoothukudi District, 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, Thoothukudi (FAC), Thoothukudi District, and on further conditions that:

[a]the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned



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Sessions Judge may obtain a copy of their valid identity card to ensure their identity.

[b]the appellant shall stay at Trichy and report before the Inspector of Police, Cantonment Police Station, Trichy for a period of one month daily at 10.00 a.m. and thereafter appear before the respondent police daily at 10.00 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.

31.03.2023

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

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To

- 1.The Superintendent,
Central Prison,
Palayamkottai.
- 2.The Sessions Judge,
Special Court for trial of Cases under SC/ST (POA) Act,
Thoothukudi (FAC), Thoothukudi District.
- 3.The Deputy Superintendent of Police,
Kovilpatti Sub Division,
Thoothukudi District.
- 4.The Inspector of Police,
Kayathar Police Station,
Thoothukudi District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Pre-delivery order made in
Crl. A.(MD)No.232 of 2023

Dated : 31.03.2023