



Crl. A.(MD)No.247 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATE : 12.04.2023

CORAM

THE HONOURABLE MR. JUSTICE K.MURALI SHANKAR

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1.Achu @ Aswathraman

2.Karthi @ Karthick

3.Harish @ Hariharan

4.Vicky @ Jeganathan

5.Deepan @ Singapur @ Deepankumar

... Appellants/Petitioners/
Accused Nos.1 to 3, 5 & 6

Vs.

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

... 1st Respondent/1st Respondent/
Complainant

2.The State represented by
The Inspector of Police,
Allinagaram Police Station,
Theni District.
(Crime No.4 of 2023)

... 2nd Respondent/Complainant/
Complainant

3.Muthulakshmi

... 3rd Respondent/Defacto
Complainant/Defacto
Complainant



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4.Alaguraja

... 4th Respondent/Victim/Victim

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Prayer : This Criminal Appeal is filed under Section 14(A)(2) of the Schedule Castes and Tribes Prevention of Atrocities Act, 2015 as Amended by Act 1 of 2016, to call for the records pertaining to the order passed in Cr.M.P.No.377 of 2023 dated 14.03.2023 on the file of the learned Special Court for exclusive trial of cases under SC/ST Act (POA Act), Theni District and set aside the same as illegal and enlarge the appellants on bail by allowing the appeal.

For Appellants	: Mr.R.Shankar Ganesh
For R1 & R2	: Mr.A.Albert James Government Advocate (Crl. Side)
For R3 & R4	: M/s.C.Jeya Indira Patel Legal Aid Counsel

JUDGMENT

This Criminal Appeal is directed against the order passed in Cr.M.P.No.377 of 2023 dated 14.03.2023 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 05.01.2023 at about 11.00 p.m., the appellants along with the other accused had attacked the fourth respondent/defacto complainant's son and snatched gold chain and money



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from him. Hence, the second respondent registered a case against four named persons and five unnamed persons in Crime No.4 of 2023 for the offences under Sections 147, 324 and 379 IPC. Subsequently, the case was altered into Sections 294(b), 323, 324 and 147 IPC and Sections 3(l)(r), 3(l)(s) and 3(2)(va) of SC/ST (Prevention of Atrocities) Amendment Act, 2015.

3. The learned counsel appearing for the appellants would submit that the appellants are innocents and they have not committed any offence as alleged by the prosecution, that due to previous motive in fishing rights, the third respondent has lodged the above false complaint and that the appellants have been falsely implicated in this case.

4. The learned Government Advocate (Criminal Side) appearing for the respondents 1 and 2 would submit that the first appellant is having two previous cases in Crime Nos.146 of 2017 and 447 of 2021 on the file of the second respondent for the similar offence and that the other appellants are not having any previous cases.

5. The learned counsel appearing for the respondents 3 and 4 has filed a counter statement, wherein, it has been stated that CCTV footage has



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clearly revealed that all the accused persons had attacked the fourth respondent and caused severe injuries on him and that if the appellants are released on bail, they will definitely tamper the evidence and witnesses and hence, she has raised objections to grant bail to the appellants.

6. Considering the above facts and circumstances and also the facts that the appellants 2 to 5 are in custody from 09.03.2023 and that the appellants 2 to 5 are not having any previous cases, this Court is inclined to allow the Criminal Appeal as against the appellants 2 to 5. However, considering the bad antecedents of the first appellant, this Court is not inclined to allow the Criminal Appeal as against the first appellant.

7. Accordingly, the Criminal Appeal is partly allowed and the order, dated 14.03.2023 made in Crl.M.P.No.377 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 as against the appellants 2 to 5. The appellants 2 to 5 are ordered to be released on bail on their executing a bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** each with two sureties, each for a like sum to the satisfaction of the Special Court for exclusive Trial of Cases under SC/ST Act (POA Act), Theni District and on further conditions



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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 appellants 2 to 5 shall appear before the respondent police daily at 10.30 a.m., until further orders.

[c]the appellants 2 to 5 shall not tamper with evidence or witness either during investigation or trial.

[d]the appellants 2 to 5 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 2 to 5 in accordance with law as if the conditions have been imposed and the appellants 2 to 5 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]**.



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[f] If the accused thereafter absconds, a fresh FIR

can be registered under Section 229-A IPC.

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8. Accordingly, the Criminal Appeal is dismissed as against the first appellant.

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

To

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



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K.MURALI SHANKAR, J.

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