



Crl. A.(MD)No.250 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATE : 13.04.2023

CORAM

THE HONOURABLE MR. JUSTICE K.MURALI SHANKAR

Crl. A.(MD)No.250 of 2023

Sudalaikannu

... Appellant/Petitioner/
Sole Accused

Vs.

1.The State represented by its
The Deputy Superintendent of Police,
Srivaikundam Sub-Division,
Srivaikundam,
Thoothukudi District.

2.The Inspector of Police,
Seithunganallur Police Station,
Seithunganallur,
Thoothukudi District.
(Crime No.52 of 2022)

...Respondents1&2 /Respondents
& Complainant

3.Arumugalakshmi

... 3rd Respondent/Complainant

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 10.03.2023 passed in Cr.M.P.No.211 of 2023 in S.C.No.21 of 2022 on the file of the Special Court for trial of cases under SC/ST (POA) Act, Thoothukudi and set



Crl. A.(MD)No.250 of 2023

aside the same as arbitrary and consequently to release the petitioner on bail in connection with case in Crime No.52 of 2022 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 : No appearance

JUDGMENT

This Criminal Appeal is directed against the order passed in Cr.M.P.No.211 of 2023 dated 10.03.2023 by the learned Sessions Judge, Special Court for trial of cases under SC/ST (PoA) Act, Thoothukudi (FAC).

2. The case of the prosecution is that on 28.03.2022 at about 11.00 a.m., the appellant/sole accused had pulled down the third respondent/defacto complainant and abused her by using filthy language and her caste name. Hence, the second respondent registered a case against the appellant in Crime No.52 of 2022 for the offences under Sections 294(b) and 506(1) IPC and Section 4 of TN Prohibition of Harassment of Women Act, 2002, subsequently the case was altered into Sections 294(b), 354(A) and 506(1) IPC, Section 4 of TN Prohibition of Harassment of Women Act, 2002 and Sections 3(1)(r) and 3(2)(va) of SC/ST (Prevention of Atrocities) Act.



Crl. A.(MD)No.250 of 2023

3. When the matter is taken up for hearing today, due to the ill-health of the third respondent, she sent a letter to this Court through the Sub Inspector of Police, Seithunganallur Police Station, wherein, she has raised objections to grant bail to the appellant and also expressed her inability to attend this Court.

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. He would further submit that the appellant was already released on bail by the lower Court on 10.05.2022 and then due to ill-health, the appellant did not appear for the hearing on 07.07.2022 and hence, Non-bailable Warrant was ordered to be issued.

5. The learned Government Advocate (Criminal Side) appearing for the respondents 1 and 2 would submit that since the appellant has not turned up for the hearing on 07.07.2022, Non-Bailable Warrant was ordered to be issued and that the appellant was arrested on 06.01.2023 and was remanded to judicial custody. He would further submit that the appellant is having 7 previous cases, in which, 3 cases for the offence under Section 506(2) IPC and 2 cases for the offence under Section 379 IPC.



Crl. A.(MD)No.250 of 2023

6. Considering the above facts and circumstances and also the fact that the appellant is in custody from 06.01.2023 and also taking note of the fact that Non-Bailable Warrant was ordered to be issued for the first time in the above case, this Court is inclined to allow the Criminal Appeal by setting aside the order, dated 10.03.2023 made in Crl.M.P.No.211 of 2023 on the file of the learned Sessions Judge, Special Court for trial of cases under SC/ST (PoA) Act, Thoothukudi (FAC).

7. Accordingly, the Criminal Appeal is allowed and the order, dated 10.03.2023 made in Crl.M.P.No.211 of 2023 on the file of the learned Sessions Judge, Special Court for trial of cases under SC/ST (PoA) Act, Thoothukudi (FAC), 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, 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.



Crl. A.(MD)No.250 of 2023

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[b]the appellant shall appear before the trial Court on all working days 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.

13.04.2023

NCC : Yes/No
Index : Yes/No
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Crl. A.(MD)No.250 of 2023

K.MURALI SHANKAR, J.

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To

- 1.The Superintendent,
Central Jail, Palayamkottai,
Tirunelveli District.
- 2.The Sessions Judge,
Special Court for trial of cases under SC/ST (PoA) Act,
Thoothukudi (FAC).
- 3.The Deputy Superintendent of Police,
Srivaikundam Sub-Division,
Srivaikundam,
Thoothukudi District.
- 4.The Inspector of Police,
Seithunganallur Police Station,
Seithunganallur,
Thoothukudi District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.A.(MD)No.250 of 2023

13.04.2023