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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 06/04/2023

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The Hon'ble Mr.Justice **G.ILANGOVAN**

Cr1.OP(MD)Nos.6028 and 5604 of 2023

(1)Cr1.OP(MD)No.6028 of 2023:-

Ayesha Kallashi : Petitioner/A1

Vs.

1.The Deputy Superintendent of Police,
Tiruchendur,
Thoothukudi District.

2.The Inspector of Police,
Kulasekarapattinam Police Station,
Thoothukudi District.
(Crime No.45 of 2023) : R1 and R2/Complainant

3.Thangammal : R3/De-facto Complainant

PRAYER:- This Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to direct the Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi District to consider and dispose of the bail application to be filed by the petitioner on the same day of its filing on her surrender in connection with the case in Crime No.45 of 2023 on the file of the Inspector of Police, Kulasekarapattinam Police Station, Thoothukudi district.



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2

For Petitioner : Mr.R.Anand
For 1st Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor
For 2nd Respondent : Mr.V.Rajiv Rufus

(2)Cr1.OP(MD)No.5604 of 2023:-

Babu : Petitioner/A2

Vs.

The State rep. by

1.The Deputy Superintendent of Police,
Tiruchendur,
Thoothukudi District.

2.The Inspector of Police,
Kulasekarapattinam Police Station,
Thoothukudi District.
(Crime No.45 of 2023) : R1 and R2/Complainant

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For Petitioner : Mr.VR.Shanmuganathan
For 1st Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor
For 2nd Respondent : Mr.V.Rajiv Rufus

COMMON ORDER

These criminal original petitions have been filed seeking for direction to the Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi District to consider and dispose of the bail application to be filed by the petitioners on the same day of its filing on their surrender in connection with the case in Crime No.45 of 2023 on the file of the Inspector of Police, Kulasekarapattinam Police Station, Thoothukudi district.

2.The case of the prosecution in brief:-

The de-facto complainant namely Thangammal lodged a complaint stating that her husband was working as Sanitary worker in Udangudi Town Panchayat for about 30 years. For giving promotion, bribe was demanded by the Town Pachayat officials. Because of the above said inability on the part of her husband, the Panchayat President used to tease and insult by calling the caste



5.The de-facto complainant was represented by her counsel and was also heard.



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6.The learned counsel appearing for the first accused namely AyeshaKallashi would straightaway rely upon the common order passed by this court in WP(MD)Nos. 24913 and 24998 of 2019, dated 28/04/2022 in the case of P.Sudalaimadan and another Vs. The District Collector, Collectorate, Thoothukudi-628 101 and others, seeking promotion. Both the petitions were dismissed by this court stating that promotion cannot be claimed as a matter of right and it is governed by the service Rules and that was dismissed, on 28/04/2022.

7.Now the learned counsel appearing for the petitioner in Cr1.6028 of 2023/A1 would submit that on the date of the occurrence namely 17/03/2023, no writ petition was filed. Only subsequently on the date of the occurrence itself, the above said petition was dismissed as early as on 28/04/2022. It is further submitted that on the date of the occurrence, A1 was not the President and she was only a former President.

8.But the learned counsel appearing for the 2nd respondent/de-facto complainant would submit that now the President is the daughter-in-law of A1, A1 and her family is controlling the functioning of the entire panchayat.



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9.The de-facto complainant in another case lodged a complaint stating that she was working as Sanitary worker in Udangudi Panchayat. She is also eligible for promotion. The Town Panchayat President namely Ayesha Kallashi and Executive Officer demanded money for giving promotion. But she was not willing. On 01/04/2014 at about 6.00 am, she attended the work. The above said Ayesha Kallashi enquired her about the promotion, for which, she replied that she is eligible for promotion as per the seniority. She calling her caste name and also she pushed her down. The de-facto complainant sustained injuries. So according to the de-facto complainant, the 1st accused habitually doing this.

10.Whether, the above said is true or not is a matter for investigation. According to A1, absolutely there is no possible for her to deny the promotion to the deceased and by calling him his caste name. Whether any abetment of suicide or not cannot be a matter for consideration by this court in this petition. Depending upon the merits of the case, it has to be taken into account only by the trial court.



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11.Only limited power is available to this court as to whether in the facts and circumstances of the case, a direction can be issue.

12.But reading of the FIR, there was continuous trouble between the deceased and A1. So this is not a fittest case to exercise the discretionary power for giving a direction to the trial court to consider the bail application on the date of her surrender itself. The petitioner/A1 has to surrender before the trial court and seek regular bail in the usual course.

13.In so far as the Executive Officer is concerned, who is the petitioner/A2 in CrI.OP(MD)No.5604 of 2023 is concerned, it has been simply stated that A1 through this petitioner extracted hard work from the deceased. Except this, no other allegation has been made that he is also responsible for the suicide or abetment as the case may be.

14.The learned counsel appearing for the 2nd respondent/de-facto complainant would submit that the Executive Officer is the competent authority to grant



permission. Only at the instance of this petitioner, A1 harassed the deceased. But nowhere in the complaint, it has been stated like that.

15.Considering the limited allegation that has been made against this petitioner, a direction is issued to the Special Court to consider the application of this petitioner namely Babu on the date of his surrender itself. More-over, the petitioner being the Government servant, if arrested and remanded to judicial custody, there is every likelihood of him being suspended.

16.In the result, CrI.OP(MD)No.6028 of 2023 filed by A1 namely Ayesha kallashi is **dismissed**. CrI.OP(MD)No.5604 of 2023 filed by A2-Babu is **ordered as indicated above**.

06/04/2023

Index:Yes/No
Internet:Yes/No

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To,

- 1.The Special Court for Trial of cases under SC/ST (POA) Act, Thoothukudi District.
- 2.The Deputy Superintendent of Police, Tiruchendur, Thoothukudi District.
- 3.The Inspector of Police, Kulasekarapattinam Police Station, Thoothukudi District.
- 4.The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.



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10

G.ILANGOVAN, J

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Cr1.OP(MD)Nos.6028 and 5604 of 2023

06/04/2023