



CRL.A(MD).No. 297 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 18.04.2023

Delivered on : 25.04.2023

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRL.A(MD).No. 297 of 2023

J.Shunmugaraja : Appellant/Accused

Vs.

1.State through the Deputy Superintendent of Police,
Samayanallur Sub Division,
Nagamalai Pudukottai Police Station,
Madurai District.
Crime No.61 of 2023.

2.Bharathi : 2nd Respondent/Defacto
Complainant

Prayer : This Criminal Appeal is filed under Section 14(A)(2) of the Schedule Caste and the Schedule Tribes (Prevention of Atrocities) Amendment Act, to call for the records relating to the order, dated 06.04.2023 made in CrI.M.P.No.919 of 2023 on the file of the learned III Additional District and Sessions Judge (PCR), Madurai, set aside the same and enlarge the appellant on bail in Crime No.61 of 2023, on the file of the first respondent Police.

For Appellant : Mr.K.Chellapandian, Senior counsel.
For Mr.D.Venkatachalam



CRL.A(MD).No. 297 of 2023

WEB COPY

For R1 : Mr.A.Albert James,
Government Advocate (Criminal Side)

For R2 : Mr.S.Vanchinathan

JUDGMENT

This Criminal Appeal has been filed against the order, dated 06.04.2023 made in CrI.M.P.No.919 of 2023 on the file of the learned III Additional District and Sessions Judge (PCR), Madurai.

2.The case of the prosecution culled out from the complaint lodged by the defacto complainant is :

The defacto complainant is a second year M.A., (History) student in Madurai Kamarajar University, while the appellant is Professor in Modern History Department in the very same University. In October 2021, when the defacto complainant went to the university office to submit her scholarship application, the appellant, who was standing in the office entrance, had asked about her presence on Saturday, and after her reply, he had enquired about her community. When the complainant replied that she belongs to SC Pallar community, the appellant had stated that as she belongs



CRL.A(MD).No. 297 of 2023

to that particular community she would go with anyone who asks her out, none in her department were disciplined and he had even carried on abortion for many. Subsequently in January at about 3.20pm when the defacto complainant was speaking with another student Manila, the appellant had teased the defacto complainant by commanding as to whether she has come on her foot or had rolled down the road. Again in January 2023 when defacto complainant was proceeding with Manila for the purpose of her project, the appellant commented and asked where Kallachi and Pallachi were going together. When the appellant takes attendance in class, he would tell the students that the defacto complainant looked like his mother-in-law and sister-in-law; Subsequently, on seeing the defacto complainant and Manila together, he questioned Manila as to why she was going with the defacto complainant and since, she was with Kannan, she will definitely come to him to go to the hospital. The appellant further threatened that the defacto complainant would never complete her project. The appellant had drawn a female body on the board and described them in an indecent and vulgar manner. Though the complainant had lodged a complaint against the appellant with the Registrar, no action was taken and therefore, the defacto complainant was constrained to prefer the present complaint. On the basis of the above complaint lodged on 23.02.2023, FIR was registered in Crime



CRL.A(MD).No. 297 of 2023

No.61 of 2023 under Sections 294(b), 354, 509 IPC; Section 4 of Tamil Nadu Prohibition of Harassment of Women Act and under Sections 3(1)(r), 3(1)(s) of SC/ST (POA) amendment Act.

3. The case of the appellant/accused is that there is no issue between the appellant and the defacto complainant, but the issue was between himself and one K.Sadhasivam, Associate Professor of Economics Department, who was Registrar in-charge of the University, that the Election to Senate, Syndicate and Standing Committee members of the University was held on 03.03.2023; that the appellant being the executive member of Madurai Kamarajar University Professors Association (MUFA), the appellant had been canvassing vigorously for his friends contesting the election, and because of his work, the Registrar got irked and hatched a conspiracy with Professor Kannan; that a case came to be registered against Professor Kannan in Crime No.391 of 2014 on sexual harassment complaint lodged by a girl student and he was in prison for 48 days; that the defacto complainant who is closely associated with Professor Kannan and being his project student, as well due to election motive, Professor Kannan and the Registrar in-charge K.Sadhasivam had instigated the defacto complainant to lodge a false complaint, dated 14.02.2023 with the Registrar against the appellant; that the



CRL.A(MD).No. 297 of 2023

Registrar in-charge K.Sadhasivam, had immediately referred the complaint to the Internal committee, which summoned the defacto complainant to appear before them on 21.02.2023 for enquiry; that the said committee had also issued a summon to the appellant to appear for enquiry on 22.02.2023; though the appellant had appeared for the enquiry and deposed before the committee, the defacto complainant did not turn up on that day and that the appellant came to know that the defacto complainant has lodged a complaint to reconstitute the internal committee making allegations against the members of the said committee.

4. It is the further case of the appellant that on 16.02.2023, a gang of unknown persons entered into his class room and attacked him; that they had also abused the appellant in filthy language; that the students surrounded the said gang and brought them to the Registrar room, but the Registrar in-charge refused to call the Police and allowed the gang members to escape from the campus and on the basis of the complaint lodged, FIR in Crime No57 of 2023 for the offence under Sections 147, 448, 294(b), 353, 323 and 506(i) IPC was registered and the investigation is pending.



CRL.A(MD).No. 297 of 2023

5. The defacto complainant has filed a counter affidavit raising serious objections, reiterating the complaint contentions and further stated that subsequent to the arrest of the appellant on 04.04.2023, Professor Nagoor Kani friend of the appellant/accused went to the house of the witness Manikandan and threatened and compelled him not to reveal the truth before the Police; that the friends of the accused had also threatened and compelled the defacto complainant to settle the issue amicably by receiving amount and that on submission of the above facts before the Special Court, accepting the same, the bail application of the appellant was ordered to be dismissed.

6. Heard Mr.K.Chellapandian, Senior counsel appearing for the appellant; Mr.A.Albert James, learned Government Advocate (Criminal Side) appearing for the State and Mr.S.Vanchinathan, learned counsel appearing for the second respondent.

7. The learned counsel for the appellant would submit that the appellant is a very dignified person and had earned a good name among the students; that the Special Court failed to consider that the complaint was lodged at the instance of the Registrar in-charge and the Professor



CRL.A(MD).No. 297 of 2023

Kannan; that two Project students under the appellant also belong to SC community and the appellant had been treating them respectfully and there was no such complaint from the said students; that the brother of the defacto complainant was also studying under the appellant as a project student; that when the mob attacked the appellant, more than 30 students jointly submitted a representation to the Registrar to take action against them and in that representation ten students belonging to SC community had also signed.

8. The learned counsel for the defacto complainant would submit that the appellant with caste animosity, caste discrimination against SC/ST students in particular would disclose it among the students at every given opportunity, he disclosed the caste boldly and purposely ill- treated them and teased them in front of students of other community by uttering words which would show out his communal hatred, even in the class room or public place; that the appellant had also made a proposal of sexual exploitation against the girl students for the past ten years; that the appellant in the year 2011 had failed all the students belonging to SC/ST community and due to abnormal situation, a complaint has been lodged against him.



CRL.A(MD).No. 297 of 2023

9. The learned counsel for the defacto complainant would further contend that the offence committed by the accused is not an isolated offence, is continuous and serious; that the accused is communally influenced person and if he is released on bail, he will definitely threaten and tamper the witnesses and subvert the investigation by using money and muscle power.

10. The learned Government Advocate (Criminal Side) appearing for the State would submit that considering the serious charges levelled against the appellant and that the investigation is in initial stage, the appellant is not entitled to be enlarged on bail at this point of time.

11. It is evident from the records that after the registration of the FIR, the appellant has filed a petition in CrI.O.P.No.4126 of 2023 and in pursuance of the directions of this Court, dated 08.03.2023, the appellant has surrendered before the III Additional District and Sessions Court (PCR), Madurai. The learned Sessions Judge, accepting the surrender, remanded him to judicial custody on 30.03.2023. The appellant then moved a bail application in CrI.M.P.No.149 of 2023 and the learned Sessions Judge has passed the impugned order, dismissing the said petition and aggrieved by the said order, the present appeal came to be filed.



CRL.A(MD).No. 297 of 2023

12. On perusal of the above facts and circumstances, it is shocking that Professors, teachers of a well renowned University, are setting a bad example for the students. When taking stock of the situation prevailing in the University, this Court is disheartened to notice that few of the teaching faculty, are indulging in caste politics and election politics. They have forgotten and it is the duty of this Court to remind them again, “***A teacher affects eternity. He can never tell where his influence stops.***” It is unfortunate that criminal cases came to be registered against the Professors of the university for the occurrences alleged to have happened within university campus and the teaching faculty, who should stand as a role model for students are now standing as dreadful examples and are a bad influence over the students. Hoping that this quote, “***Teachers can change lives with the right mix of chalk and challenges..***” is taken in the right sense by the teachers, they change for the good and betterment of the University and for the students at large, who look upon them for their better future.

13. The learned counsel for the appellant would mainly contend that though some of the incidents shown in the complaint had taken place in 2021, there was no acceptable reason or explanation for not lodging any complaint immediately, in 2021 and for preferring the present complaint very



CRL.A(MD).No. 297 of 2023

belatedly. He would further submit that since the appellant is a Professor in Madurai Kamarajar University, there is absolutely no possibility for the petitioner to abscond. Further the appellant was attacked by a gang of persons while in his classroom at the instigation of Professor Kannan and the Registrar in-charge Sadasivam. The appellant was not arrested by the Police, but on the other hand, he surrendered before the concerned Court in pursuance of the directions of this Court and the appellant was in judicial custody from 30.03.2023. The respondent Police has not claimed that further custodial interrogation is necessary and therefore prayed that the appellant may be enlarged on bail by setting aside the order of dismissal passed by the Special Court.

14. As rightly contended by the learned counsel for the appellant, the offence under Section 354 IPC and the offence under Section 3(1)(r) (s) of SC/ST Act attracts punishment of imprisonment which may extend to 5 years, while the offence under Section 509 IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act would attract punishment of imprisonment which may extend upto 3 years and the appellant has not been charged with any offence which attracts punishment of imprisonment for seven years and more.



CRL.A(MD).No. 297 of 2023

15. Considering the above facts and circumstances and also the fact that another FIR came to be registered in Crime No.57 of 2023, on the basis of the complaint lodged by the appellant and taking note of the submission of the counsel for the appellant that there existed election enmity between the appellant and the rival group, that the appellant is not having any other previous case for similar offence or for any other serious offences as submitted by the learned Government Advocate (Criminal Side) and also the fact that the appellant is in judicial custody from 30.03.2023, this Court is inclined to grant bail to the appellant.

16. Accordingly, the Criminal Appeal is allowed and the order dated 06.04.2023 made in CrI.M.P.No.919 of 2023 on the file of the learned III Additional District and Sessions Judge (PCR), Madurai, 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 learned III Additional District and Sessions Judge (PCR), Madurai, and on further condition 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. 297 of 2023

[b] the appellant shall stay at Villupuram and sign before the Villupuram Town Police station daily at 10.30 am for 30 days and thereafter, shall report before the respondent police daily at 10.30 am until further orders;

[c] the appellant shall not tamper with evidence or witness either during investigation or trial.

[d] the appellant shall render his co-operation for the investigation.

[e] On breach of any of the aforesaid conditions, the learned Sessions Judge/Trial Court is entitled to initiate 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.

25.04.2023

NCC : Yes/No
Index : Yes : No
Internet : Yes : No
das



CRL.A(MD).No. 297 of 2023

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To

- 1.The III Additional District and Sessions Judge (PCR),
Madurai.
- 2.The Deputy Superintendent of Police,
Samayanallur Sub Division,
Nagamalai Pudukottai Police Station,
Madurai District.
- 3.The Superintendent of Prison,
Central Jail, Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- 5.The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court, Madurai.



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CRL.A(MD).No. 297 of 2023

K.MURALI SHANKAR,J.

das

Pre-delivery order made in

CRL.A(MD).No. 297 of 2023

25.04.2023