



Crl. A.(MD)No.320 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Reserved on : 24.04.2023

Delivered on : 26.04.2023

CORAM

THE HONOURABLE MR. JUSTICE K.MURALI SHANKAR

Crl. A.(MD)No.320 of 2023

Ayesha Kallashi

... Appellant/
Accused No.1

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)

... Respondent/
Complainant

3.Thangammal

... Respondent/
Defacto
Complainant

Prayer : This Criminal Appeal is filed under Section 14A(2) of SC/ST (POA) Act 2015, to call for the entire records pertaining to the order passed by the



Crl. A.(MD)No.320 of 2023

Special Court for Trial of Cases under SC/ST (PoA) Act, Thoothukudi in Crl.M.P.No.308 of 2023 vide order dated 13.04.2023 and set aside the same and consequently release the appellant on bail in connection with the Crime No.45 of 2023 pending on the file of the second respondent.

For Appellant : Mr.R.Anand
For R1 & R2 : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor
For R3 : Mr.T.Lajapathi Roy, Senior Counsel
for Mr.V.Rajiv Rufus

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.308 of 2023 dated 13.04.2023 and enlarge the appellant on bail.

2. The case of the prosecution is that the third respondent/defacto complainant is residing at Puthu Colony, Udangudi and her husband Sudalaimadan was working as a sweeper in Udangudi Panchayat for the past 30 years, that the appellant/first accused, who is the Ex-President of Udangudi Panchayat for getting promotion demanded few lakhs from the said



Crl. A.(MD)No.320 of 2023

Sudalaimadan, but he could not pay the amount as demanded by the appellant and the other accused, that on 17.03.2023 at about 06.15 a.m., when the said Sudalaimadan was present in the Panchayat office on Muster roll, the appellant came there and called him as சக்கிலிய பயலே உனக்கெல்லாம் பதவி உயர்வு போட்டு தரணுமா, யூனிபார்ம் போட்டுட்டு போய் சாக்கடையை போய் அள்ளு and humiliated him in the presence of public and other witnesses and that the said Sudalaimadan returned home and instigated by the appellant, had committed suicide by consuming poison.

3. On the basis of the complaint lodged by the third respondent, FIR came to be registered in Crime No.45 of 2023 against two persons including the appellant herein for the offences under Sections 294(b) and 186 IPC and Sections 3(l)(r) and 3(l)(s) of SC/ST (Prevention of Atrocities) Act, 1989. Subsequently, the case was altered into Sections 294(b), 186, 306, 109, 212 IPC and Sections 3(1)(r), 3(1)(s) and 3(2) (V) of SC/ST (POA) Amendment Act 2015.

4. It is not in dispute that the appellant has filed a petition for bail in Crl.M.P.No.308 of 2023 and the same was dismissed by the learned Sessions Judge, Special Court for trial of cases under SC/ST (PoA) Act, Thoothukudi



Crl. A.(MD)No.320 of 2023

(FAC), on 13.04.2023. Challenging the same, the appellant has preferred this Criminal appeal.

5. The case of the appellant/first accused is that the allegation that the appellant has not considered the deceased Sudalaimadan for promotion cannot be construed as an act of instigating, inciting or abetting so as to attract the offence under Section 306 IPC, that the appellant is not the authority competent to consider the promotion of the deceased Sudalaimadan, that the Government officials alone are having powers under Tamil Nadu Panchayat Act to decide about the promotions, that since the appellant had no role in the matter of promotion, the allegation as if she had abused could not be true and that the appellant is an innocent and she has been falsely implicated in the above case.

6. The case of the third respondent/defacto complainant is that after the registration of the FIR, the appellant along with her son and daughter-in-law had absconded, that her application filed before this Court in Crl.O.P. (MD)No.5429 of 2023 was ordered to be dismissed and that since the appellant is an influential lady, she will tamper the witnesses and there is a possibility of life threat to the third respondent, if released on bail.



Crl. A.(MD)No.320 of 2023

7. Heard the learned counsel appearing for the appellant, the learned Additional Public Prosecutor appearing for the respondents 1 and 2 and the learned Senior Counsel appearing for the third respondent.

8. The learned counsel appearing for the appellant would submit that the appellant has been suffering from number of health ailments, that she has recently undergone a major medication, that the appellant is now aged 66 years and that as per the advice of Doctor, she has to be under complete bed rest. He would further submit that at the time of remanding the appellant, considering her health conditions, she was directed to be admitted in the hospital, that the hospital authorities have been taking various medical tests and that since her health condition is seriously affected, she may be enlarged on bail.

9. When the matter was taken up for hearing on 21.04.2023, considering the submissions made by the learned counsel appearing for the appellant and the learned Additional Public Prosecutor appearing for the respondents 1 and 2 that the appellant is taking inpatient treatment in Thoothukudi Medical College Hospital, the first respondent police was directed to get a report from the hospital authority with regard to the health



Crl. A.(MD)No.320 of 2023

condition of the appellant. When the matter was taken up for hearing on 24.04.2023, the learned Additional Public Prosecutor has produced the report issued by the Thoothukudi Medical College Hospital, wherein, it has been stated that the appellant's High Blood Pressure and High Blood Sugar were brought under control over a period of aggressive medical management, that since the appellant had recurrent chest pain, she was taken for coronary angiogram on 21.04.2023, that angiogram showed normal epicardial coronary arteries and that if there are no complications, the appellant will be likely to be discharged on forenoon of 24.04.2023. Subsequently, the learned Additional Public Prosecutor appearing for the respondents 1 and 2 would submit that the appellant was discharged from the hospital and she was sent to prison on the afternoon of 22.04.2023.

10. The learned Additional Public Prosecutor appearing for the respondents 1 and 2 would submit that the appellant herself has given a confession statement, wherein, after elaborating about the incident occurred at 06.15 a.m., at the Panchayat office, she has further stated that at about 07.00 a.m., on that day, after coming to know about the incident occurred at 06.15 a.m., the appellant's daughter-in-law came to the Panchayat office and enquired the Executive Officer as to why duty was allotted to the deceased



Crl. A.(MD)No.320 of 2023

Sudalaimadan, despite his objectionable conduct against her mother-in-law, that the deceased Sudalaimadan was called over phone and informed him that since he had raised voice against them, he cannot be allotted with any work, that resolution will be passed dismissing him from service and directed him to go out of the campus and that thereafter, he went to his home and consumed poison.

11. Admittedly, the appellant is the Ex-President of Udangudi Panchayat and at present her daughter-in-law Humaira Rameesh Fathima is the President of the said Panchayat.

12. As rightly pointed out by the learned Senior Counsel appearing for the third respondent, though the appellant's daughter-in-law is the President of Udangudi Panchayat, the appellant had visited the Panchayat office at about 06.15 a.m. on the occurrence date and attended the muster roll and on seeing the deceased Sudalaimadan was not in proper uniform, she abused him in filthy language using caste name and uttered the words as referred above.

13. The learned Senior Counsel appearing for the third respondent



Crl. A.(MD)No.320 of 2023

would submit that immediately after the two occurrences allegedly held at 06.15 a.m. and 07.00 a.m. in the Panchayat office, the deceased Sudalaimadan went to his home and consumed monocrotophos medicine, that immediately he was taken to Udangudi Government Hospital and after first aid, he was taken to Tiruchendur Government Hospital through 108 ambulance, that later he was referred to Government Hospital, Thoothukudi, that while the said Sudalaimadan was taking treatment in Thoothukudi Government Hospital, complaint came to be lodged and on that basis, the present FIR came to be registered in Crime No.45 of 2023 for the offences under Sections 294(b) and 186 IPC and Sections 3(1)(r) and 3(1)(s) of SC/ST (Prevention of Atrocities) Act, 1989 and that since the said Sudalaimadan had died subsequently, the case was altered into Sections 294(b), 186, 306, 109, 212 IPC and Sections 3(1)(r), 3(1)(s) and 3(2) (V) of SC/ST (POA) Amendment Act 2015.

14. No doubt, as rightly contended by the learned counsel appearing for the appellant, co-accused Syed Sirajudeen was granted bail by this Court in Crl.A.(MD)No.333 of 2023 on 21.04.2023.

15. Admittedly, the allegation against the co-accused Syed Sirajudeen is that he had helped the appellant financially subsequent to the



Crl. A.(MD)No.320 of 2023

occurrence. Hence, the granting of bail to the co-accused Syed Sirajudeen, by no stretch of imagination can be considered as reason or ground to grant bail to the present appellant, who is the first and main accused.

16. According to the learned Additional Public Prosecutor, the second accused, Executive Officer and the appellant's son and daughter-in-law are still absconding.

17. It is pertinent to note that though the appellant was arrested on 10.04.2023 and was remanded to judicial custody, she was admitted in the hospital on 10.04.2023 and thereafter she was discharged on 22.04.2023.

18. As rightly pointed by the learned Additional Public Prosecutor appearing for the respondents 1 and 2 and also the learned Senior Counsel appearing for the third respondent, the appellant had absconded herself from 18.03.2023 till 10.04.2023 successfully along with her son and daughter-in-law.

19. The learned Additional Public Prosecutor appearing for the respondents 1 and 2 would submit that if the appellant is released on bail, she



Crl. A.(MD)No.320 of 2023

will tamper the witnesses and there is every possibility of threatening the third respondent and the other witnesses.

20. Considering the above facts and circumstances and also the nature and gravity of the offence alleged and the period of judicial custody and also taking note of the objections of the prosecution that the appellant will abscond and will tamper the witnesses and threaten the third respondent and the other witnesses, if released on bail, this Court is not inclined to enlarge the appellant on bail at this point of time. Consequently, this Court concludes that the appeal is devoid of merits and the same is liable to be dismissed.

21. In the result, this Criminal Appeal Petition is dismissed.

26.04.2023

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



WEB COPY



Crl. A.(MD)No.320 of 2023

To

- 1.The Deputy Superintendent of Police,
Tiruchendur,
Thoothukudi District.
- 2.The Inspector of Police,
Kulasekarapattinam Police Station,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl. A.(MD)No.320 of 2023

K.MURALI SHANKAR, J.

csm

Pre-delivery order made in
Crl. A.(MD)No.320 of 2023

Dated : 26.04.2023