



CRL.A(MD).No. 391 & 393 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 09.06.2023

Delivered on : 16.06.2023

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRL.A(MD).Nos. 391 and 393 of 2023

Mariaselvi @ Selvi

:Appellant/A5
(in Crl.A(MD)No.391/2023)

Lidiya Mary

: Appellant/ A6
(in Crl.A(MD)No.393/2023)

Vs.

1.The State rep.by
The Deputy Superintendent of Police,
Dindigul Rural Sub Division,
Dindigul District.

2.The Inspector of Police,
Dindigul Taluk Police Station,
Dindigul District.
Crime No.140 of 2023.

: Respondents/Complainants
(in both appeals)

3.Daivanai

: Respondent/Defacto
Complainant
(in both appeals)



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Prayer : These Criminal Appeals are filed under Section 14-A(2) of the Schedule Caste and the Schedule Tribes (Prevention of Atrocities) Amendment Act, to enlarge the appellants on bail in connection with Crime No.140 of 2023 on the file of the second respondent.

(in both appeals)

For Appellant : Mr.C.Mayil Vahana Rajendran

For R1 and R2 : Mr.A.Albert James,
Government Advocate (Criminal Side)

For R3 : No Appearance

JUDGMENT

These Criminal Appeals have been filed to enlarge the appellants on bail in connection with Crime No.140 of 2023 on the file of the second respondent.

2. The case of the prosecution is that there existed previous enmity between the family of the defacto complainant and the family of the sixth accused; that the husband of A6 was murdered by the defacto complainant's husband's brother and that in order to retaliate for that murder on 02.03.2023, when the deceased was standing in front of his



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brother's house, the first accused came to that place through two wheeler and assaulted the deceased/defacto complainant's husband; that when he went inside of the house, as per instructions of the sixth accused, A1 to A4 went inside the house and assaulted the deceased with deadly weapons and abused him in filthy language; that when the defacto complainant and others went to that place, the accused had threatened them with dire consequences and that the fourth accused had left the place through two wheeler with the help of the fifth accused; that the defacto complainant had taken the injured with the help of the private ambulance and admitted him in Dindigul Government Hospital, where he was declared as dead and that on the basis of the complaint lodged by the defacto complainant, FIR came to be registered in Crime No.140 of 2023 against six persons including the appellants/A5 and A6 for the offence under Sections 147, 148, 294(b), 302, 506(ii) IPC and 3(1)(r)(s) (Va) SC/ST (POA) Act. They have filed petitions for bail in Cr.M.P.Nos. 609 and 662 of 2023 and the same were dismissed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, Dindigul, on 20.04.2023 and 11.06.2023 respectively. Challenging the same, the appellants have preferred the present Criminal appeals.



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3. The learned counsel for the appellants would submit that the appellants are innocent and they have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case.

4. The learned Government Advocate (Criminal Side) appearing for the State would submit that the defacto complainant's husband was murdered by the accused and that if the appellants are released on bail, would tamper the witnesses and there is every possibility for absconding and that therefore, they are raising serious objections to release the appellants on bail.

5. The learned counsel for the appellants would submit that when the matters were taken up in the vacation Court, the third respondent after receipt of notice had entered into appearance and at her request, the cases were adjourned. When the matters were taken up for on 02.06.2023, there was no representation for the third respondent and hence, the matters were adjourned to 05.06.2023 and taking note of the absence of the third respondent, this Court directed the first respondent Police to serve notice



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on the third respondent and posted the matter on 07.06.2023. When the matters were taken up on 07.06.2023, the third respondent has appeared before this Court and sought time for engaging a counsel and hence, the matter was adjourned to 09.06.2023. When the matter was taken up on 09.06.2023, the third respondent was present before this Court but not engaged any counsel.

6. The learned counsel for the appellants has raised objections for the conduct of the third respondent and would submit that she has been protracting the bail applications for the past more than three weeks. The third respondent was present throughout the proceedings on 09.06.2023.

7. The learned Government Advocate (Criminal Side) would submit that investigation has already been completed and the charge sheet has already laid and the case was taken on file in Spl.S.C.No.34 of 2023 and the same is pending on the file of the Special Court, Dindigul. He would further submit that A5 is having one previous case for the offence under Sections 147, 148, 294(b), 323, 324, 341, 427, 506(ii) IPC and that the sixth accused is not having any previous cases.



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8. Considering the above facts and circumstances of the case and also the fact that the investigation has already been completed and charge sheet was filed and the same was taken on file and also taking note of the fact that A5 and A6 are in judicial custody from 06.04.2023 and 04.03.2023 respectively and the appellants are not having any previous cases for similar offence or for any other serious offences, this Court is inclined to allow the Criminal Appeals by setting aside the orders, dated 20.04.2023 and 11.05.2023 made in Cr.M.P.Nos.609 and 662 of 2023 on the file of the learned Sessions Judge, Dindigul, respectively.

7. Accordingly, the Criminal Appeals are allowed and the order, dated 20.04.2023 and 11.05.2023 made in Cr.M.P.Nos.609 and 662 of 2023 on the file of the learned Sessions Judge, Dindigul, are set aside. The appellants are ordered to be released on bail on his 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 learned Special Court for Trial of Cases under SC/ST (POA) Act Cases, Dindigul, and on further conditions that:

(a) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Special Judge for Trial of



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Cases under SC/ST (POA) Act, Dindigul, may obtain a copy of their valid identity card to ensure their identity.

(b) the appellant 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 co-operate with the investigation.

(e) On breach of any of the aforesaid conditions, the learned Magistrate/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 Magistrate/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.

16.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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K.MURALI SHANKAR,J.

das

To

- 1.The Sessions Judge, Special Court for
Trial of Cases under SC/ST (POA) Act,
Dindigul.
2. The Deputy Superintendent of Police,
Dindigul Rural Sub Division,
Dindigul District.
- 3.The Inspector of Police,
Dindigul Taluk Police Station,
Dindigul District.
- 4.The Superintendent, Special Prison for Women,
Dindigul.
- 5.The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court, Madurai.

Order made in
CRL.A(MD).Nos. 391 and 393 of 2023

16.06.2023