



Crl. A.(MD)No.398 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 05.06.2023

CORAM

THE HONOURABLE MR. JUSTICE K.MURALI SHANKAR

Crl. A.(MD)No.398 of 2023

Balakrishnan

... Appellant/Petitioner/
Sole Accused

Vs.

1.The Assistant Superintendent of Police,
Ambasamudram Division,
Tirunelveli District.

2.State represented by
The Inspector of Police,
Pappakudi Police Station,
Tirunelveli District.
(Crime No.01 of 2023)

... Respondents/Complainants

3.Thangaraja

... 3rd Respondent/Defacto
Complainant

Prayer : This Criminal Appeal is filed under Section 14A(2) of SC/ST (POA) Act, 1989 as amended by Act 1 of 2016, to call for the records and set aside the bail dismissal order of the II Additional District and Sessions Judge (PCR), Tirunelveli in Cr.M.P.No.1292 of 2023 in Crime No.01 of 2023.



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For Appellant : Mr.V.M.Jegadeesha Pandian
For R1 & R2 : Mr.SS.Madhavan
Government Advocate (Crl. Side)
For R3 : No appearance

JUDGMENT

This Criminal Appeal is directed against the order passed in Cr.M.P.No.1292 of 2023 dated 26.04.2023 by the learned II Additional District and Sessions Judge (PCR), Tirunelveli.

2. The case of the prosecution is that on 03.01.2023 at about 09.00 a.m., the third respondent/defacto complainant along his wife washing their clothes at Puthukulam Madai, for which, the appellant/sole accused attacked the third respondent and pushed him down and abused him by using his caste name and thereafter, the appellant went to the third respondent house and threatened him with dire consequences. Hence, the second respondent registered a case against the appellant in Crime No.1 of 2023 for the offences under Sections 294(b), 323, 307 and 506(2) IPC and Sections 3(l)(r), 3(l)(s) and 3(2)(va) of SC/ST (Prevention of Atrocities) Act, 1989.



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3. The petitioner has filed a petition for bail in Cr.M.P.No.1292 of 2023 and the same was dismissed by the learned II Additional District and Sessions Judge (PCR), Tirunelveli, on 26.04.2023. Challenging the dismissal order, the appellant has preferred this criminal appeal.

4. The learned Government Advocate (Criminal Side) appearing for the respondents 1 and 2 would submit that the appellant is having 17 previous cases, which includes the present case. It is seen from the records that except three cases, all the cases, even according to the prosecution, are pending for trial.

5. The learned Government Advocate (Criminal Side) appearing for the respondents 1 and 2 would further submit that the appellant is working in Border Security Force as Sub Inspector of Police in Kashmir and he has already gone to Kashmir.

6. When the matter is taken up for hearing today, the mother of the third respondent is present before this Court and she has raised objections to grant bail to the appellant.



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7. 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 is in judicial custody from 26.03.2023.

8. Considering the above facts and circumstances and also the fact that the appellant is in judicial custody from 26.03.2023 and that no one was injured in this incident as stated by the learned Government Advocate (Criminal Side), this Court is inclined to allow the Criminal Appeal by setting aside the order, dated 26.04.2023 made in Cr.M.P.No.1292 of 2023 on the file of the learned II Additional District and Sessions Judge (PCR), Tirunelveli.

9. Accordingly, the Criminal Appeal is allowed and the order, dated 26.04.2023 made in Cr.M.P.No.1292 of 2023 on the file of the learned II Additional District and Sessions Judge (PCR), Tirunelveli, 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 II Additional District and Sessions Judge (PCR), Tirunelveli, and on further conditions that:



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[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.

[b]the appellant shall appear before the respondent police daily 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 is 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.

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



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K.MURALI SHANKAR, J.

csn

To

- 1.The Superintendent,
Central Prison,
Palayamkottai.
- 2.The II Additional District and Sessions Judge (PCR),
Tirunelveli
- 3.The Assistant Superintendent of Police,
Ambasamudram Division,
Tirunelveli District.
- 4.The Inspector of Police,
Pappakudi Police Station,
Tirunelveli District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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