



Crl.A.(MD).No.657 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	29.08.2023
Pronounced on	01.09.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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1.Patturaj

2.Mariappan @ Stalin

3.Kanagaraj

4.Murugan @ Balamurugan

5.Nagarajan

... Appellants/Accused Nos.1
to 5

Vs.

1.The State thorough
The Deputy Superintendent of Police,
Kovilpatti Sub Division,
Thoothukudi District.

... Respondents 1& 2/
Complainant

2.The Inspector of Police,
Kayathar Police Station,
Thoothukudi District.
(Crime No.374 of 2022)

3.Rajeshwari

... Respondent No.3/Defacto
Complainant



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PRAYER: Criminal Revision Petition has been filed under Section 14A(2) of SC & ST (POA) Amendment Act, 2015, to call for the records relating to the impugned order passed in Crl.M.P.No.697 of 2023 in S.C.No.02 of 2023 dated 26.07.2023 on the file of the Special Court for Trial of Cases under SC/ST(POA) Act, Thoothukudi (FAC), Thoothukudi District and set aside the same and enlarge the appellants on bail in Crime No.374 of 2022 on the file of the respondent police.

For Appellants : Mr.V.Kathirvelu,
Senior Counsel for
Mr.K.Prabhu

For Respondents : Mr.R.Sivakumar
Government Advocate (Crl.Side)
for R1 to R2

: Mr.A.Joseph Jerry,
Legal-Aid-Counsel for R3

JUDGMENT

This Criminal Appeal has been filed against the impugned order passed in Crl.M.P.No.697 of 2023 in S.C.No.02 of 2023 dated 26.07.2023 on the file of the Special Court for Trial of Cases under SC/ST(POA) Act, Thoothukudi (FAC), Thoothukudi District.



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2. The case of the prosecution is that the husband of the defacto complainant/deceased Alagudurai, was doing flower business, by collecting the flowers from the village merchants and sold to Sathiya Whole sale flower shop, Kovilpatti. On 04.10.2022, at 07.00 p.m., after selling the collected flowers to the said shop, the deceased said to have gone to Chettikurinji village at 04.00p.m, to the the first appellant's TASMAL bar. At that time, his distant relative brother Kanagaraj, who is arrayed as A4, asked to purchase liquor for him. When the deceased refused to bring the same, the Kanagaraj/3rd appellant made a wordy quarrel with the deceased. During the quarrel, one Stalin /A1 was intervened and attempted to assault the deceased. The deceased instructed Stalin not to interfere in their dispute. Therefore, Stalin scolded the deceased by abusing his caste name. At that time, bystander intervened and pacified both then the deceased returned to his house and informed about the quarrel to his wife who is the defacto complainant. At 7.30 p.m, when the deceased, his wife and one Ponnuthaye were talking inside his house, A1 and A2 arrived at his house by their bike and A1 scolded the deceased. The deceased once again stated not to interfere with the dispute between the deceased and the said Kanagaraj. In the meantime, A1 and A2 assaulted the deceased with hand and pushed him down. Immediately, the complainant and his relatives, asked the deceased to go inside



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the house. A1 telephoned to A3 / Patturaj and other relatives and informed the above scuffle. Immediately, Patturaj, his father Madasamy and the relatives arrived at the spot. After their arrival, all are formed unlawfully and A3 Patturaj started abusing the deceased by his caste name and caused one cut injury with aruval in the neck of the deceased. Thereafter, the defacto complainant took the deceased to the hospital, Koilpatti, wherein, he was declared dead and hence, the complaint was made to the respondent police, on 04.10.2022 at 23.00 hours. The respondent police registered the case against the accused for the alleged offences under Sections 147, 148, 294(b), 302, 506(ii) of IPC and Section 4 of TNPWH Act and Section 3(1)(r), 3(1)(s), 3(2)(v) of SC/ST (POA) Amendment Act 2015.

3. After the arrest of the accused, the respondent police made a request to the District Administration to invoke the preventive detention provision against all the accused including the appellants. Therefore, the preventive detention order was passed and the same was quashed by this Court on 18.07.2023. After the revocation of the preventive detention, the appellants filed the bail petition before the Special Court for Trial of Cases under SC/ST(POA) Act, Thoothukudi (FAC), Thoothukudi District in S.C.No.02 of 2023 and the same was dismissed by the impugned order dated 26.07.2023. Challenging the same, the present



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appeal is filed.

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4. The learned Senior counsel stated that totally seven accused in this case. Among the seven accused, three persons belong to Schedule Caste community, and four persons are other caste Hindus. Without any motive, all the accused, unlawfully assembled together and A3 caused injuries to the deceased with aruval. Hence, the deceased succumbed to the injuries and died. The appellants formed unlawful assembly and A3 caused injury resulting in death of the deceased only for the trivial issues without any premeditation. The learned Senior Counsel further submitted that they are in custody from 04.01.2022 onwards. He also submitted that the co-accused was released on bail on 07.06.2023 in Crl.A.(MD).Nos.232 of 2023 and 41 of 2023. Hence, he seeks bail.

5. The learned Additional Public Prosecutor submitted that the number of prohibition cases are pending against the each accused, apart from the IPC offences. There is a life threat to the witnesses. The investigation was completed and the final report was filed and the same was taken on file in Spl.S.C.No.02 of 2023. The case was posted for framing of charges on 30.08.2023. Hence, he



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strongly objects for grant of bail to the appellants.

6. The learned counsel for the defacto complainant reiterated the above submission and stated that the deceased has two daughters and one son aged about 3 ½ years. All the accused have caused death to the deceased and hence, the livelihood of the family is deprived. Till date there is a threat to the witnesses. Therefore, he seeks for dismissal of the bail petition.

7. This Court considered the rival submissions made on either side and perused the materials available on record.

8. The learned trial Judge dismissed the bail petition without any discussion on merits. The learned trial Judge only considered that the appellants have the previous antecedents. The previous antecedents against the appellants under the prohibition Act offence relating to the year 2016 are disposed of and the IPC offences is relating to the year 2013, 2017 for minor offences. The occurrence, even as per the prosecution, happened without any premeditation and gruesome manner. The first appellant alone caused single cut injury. Even some of the accused also belongs to the Scheduled Caste community, hence,



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there is no possibility of any communal disharmony. The appellants are also confined in prison from 04.10.2022, 06.10.2022 and 07.10.2022 onwards. The investigation was also completed, and the same was taken on file. The case was posted on 30.08.2023 for framing of charges. The co-accused, with the similarly placed was released on bail in Crl.A.(MD).No.232 of 2023. There is no threatening to the witnesses.

9. Considering the over all circumstances as stated above, this Court is inclined to grant bail. Accordingly, the Criminal Appeal is allowed and the order dated 26.07.2023 made in Crl.M.P.No.697 of 2023 in S.C.No.02 of 2023, on the file of the Special Court for trial of Cases under SC/ST (POA) Act, Thoothukudi (FAC), Thoothukudi District, is set aside. The appellants are ordered to be released on bail on their executing a bonds 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 Special Court for trial of Cases under SC/ST (POA) Act, Thoothukudi (FAC), Thoothukudi District, and on further conditions that:

(a) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Special Court for trial of Cases under SC/ST (POA) Act, Thoothukudi (FAC), Thoothukudi District, may obtain a copy of their valid



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identity card to ensure their identity.

(b) the appellants shall stay at Dindigul and report before the Dindigul Town North Police Station, daily at 10.30 am, until further orders.

(c) the appellants shall not tamper with evidence or witness either during investigation or trial.

(d) the appellants 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 appellants 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.

01.09.2023

NCC : Yes/No

Index : Yes/No

Internet: Yes/No

sbm

Note: Issue order copy on 01.09.2023



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To

- 1.The Deputy Superintendent of Police,
Kovilpatti Sub Division,
Thoothukudi District.
- 2.The Inspector of Police,
Kayathar Police Station,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

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