



CRL.A(MD).No. 695 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATE : 22.08.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.A(MD).Nos.695 & 696 of 2023

Muthukumar : Appellant/Accused No.7
(In Crl.A(MD).No.695 of 2023)

Murugan Appellant/Accused No.2
(In Crl.A(MD).No.696 of 2023)

Vs.

1.State Rep by
The Deputy Superintendent of Police,
Srivaikundam Range,
Thoothukudi District. ... 1st Respondent/Respondent/
Complainant
(in both appeals)

2.The Inspector of Police,
Srivaikundam Police Station,
Thoothukudi District.
(Crime No.177 of 2023). ... 2nd Respondent/Respondent/
Complainant
(in both appeals)

3.Rajagopal : 3rd Respondent/Respondent/
Defacto Complainant
(in both appeals)



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Common 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 call for the records pertaining to the order passed in Cr.M.P.Nos.690 and 684 of 2023 in Crime No.177 of 2023 on the file of the Special Court for Trial of Cases Under SC/ST(POA) Act, Thoothukudi, dated 28.07.2023 and set aside the same as illegal and enlarge the appellants on bail by allowing the criminal appeals.

For Appellant : Mr.S.Visnuvardhan
(In Crl.A(MD).No.695 of 2023)

For Appellant : Mr.Jeya Aron Raja
(In Crl.A(MD).No.696 of 2023)

For R21 & R2 : Mr.M.Muthumanikkam
Government Advocate (Criminal Side)

For R3 : Mr.P.Banu Prasath
(in both appeals)

COMMON JUDGMENT

These Criminal Appeals have been filed to set aside the impugned order passed in Cr.M.P.Nos.690 and 684 of 2023 dated 28.07.2023, on the file of the Special Court for Trial of Cases Under SC/ST(POA) Act, Thoothukudi, and enlarge the appellants on bail.



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2. According to the prosecution, on 09.07.2023, at night hours, in the defacto complainant's village bus stand, the portraits of Veeran Sundaralingam and Martyr Immanuel Sekaranar were set on fire with petrol bombs by the appellants and other and they also insulted the defacto complainant by calling his caste name. So, the defacto complainant made a complaint before the respondent police and the same was registered for the alleged offence under Sections 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST (POA) Act against the appellants and the other accused. Thereafter, the appellants were arrested on 11.07.2023. So, they filed a petition in Cr.M.P.Nos.690 and 684 of 2023 before the Special Court for Trial of Cases Under SC/ST(POA) Act, Thoothukudi seeking bail and the same were dismissed by the impugned order dated 28.07.2023. Challenging the same, the appellants have preferred these Criminal appeals.

3.The learned counsel for the appellants would submit that the occurrence took place at night hours. According to the Investigation Agency, number of persons said to have unlawfully assembled together and threw the petrol bombs and caused damages to the portraits of Veeran Sundaralingam and Martyr Immanuel Sekaranar. In the said circumstances, FIR was registered against the number of unknown accused. Counter case



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also registered in this aspects in Crime No.178 of 2023 for the offences under Sections 294(b), 342, 323, 324 and 506(2) of IPC against the defacto complainant and others. In the said circumstances, who are the aggressor to be investigated by the Investigation Agency. He would further submit that in the said occurrence, nobody has sustained injury and no previous case is pending against the appellants. Further, the appellants are in custody from 11.07.2023 onwards. Hence, he prays for grant of bail to the appellants.

4.The learned counsel for the Intervenor would submit that after the occurrence, there is no good atmosphere available in that place and if the appellants are released on bail, there is threat to the witnesses. Hence, he seeks for dismissal of these appeals.

5. The learned Government Advocate (Criminal Side) appearing for the State would submit that it is a case and case in counter. Counter case has been registered in Crime No.178 of 2023 for the offences under Sections 294(b), 342, 323, 324 and 506(2) of IPC. The investigation is in preliminary stage. At this stage, if the appellants are released on bail, there is threat to the witnesses. Hence, he seeks dismissal of these appeals.



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6.This Court considered the rival submission made by both the parties and perused the records.

7.Even as per the prosecution, number of unidentified persons were unlawfully assembled together in the night hours and caused damages to the portraits of Veeran Sundaralingam and Martyr Immanuel Sekaranar. In the said circumstances, no specific role has been attributed against the appellants. Further, counter case has also been registered against the rival party. Apart from that nobody has sustained injury in the said occurrence and no bad antecedent is reported against the appellants and also considering the period of incarceration, this Court is inclined to allow the Criminal Appeals by setting aside the orders, dated 28.07.2023 made in Cr.M.P.Nos.690 and 684 of 2023 on the file of the Special Court for Trial of Cases Under SC/ST(POA) Act, Thoothukudi.

8. Accordingly, the Criminal Appeals are allowed and the order, dated 28.07.2023, made in Cr.M.P.Nos.690 and 684 of 2023 on the file of the Special Court for Trial of Cases Under SC/ST(POA) Act, Thoothukudi, are set aside. The appellants are ordered to be released on bail on their



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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 Special Court for Trial of Cases Under SC/ST(POA) Act, Thoothukudi, 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, may obtain a copy of their valid identity card to ensure their identity.

(b) the **appellants shall stay at Tirunelveli** and appear before the **Junction Police Station, Tirunelveli**, 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 appellants 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]**.



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[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

22.08.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
dss

Note : Issue order copy on 22.08.2023

To

- 1.The Special Court for Trial of Cases Under SC/ST(POA) Act,
Thoothukudi.
2. The Deputy Superintendent of Police,
Srivaikundam Range,
Thoothukudi District.
- 3.The Inspector of Police,
Srivaikundam Police Station,
Thoothukudi District.
- 4.The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN,J.

dss

Order made in
CRL.A(MD).Nos.695 & 696 of 2023

22.08.2023