



CRL.A(MD)No.735 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 04.09.2023

Delivered on : 20.09.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.A(MD)No.735 of 2023

1.K.Ashok Kumar

2.L.Tharun

3.T.Balamurali

4.G.Sarath @ SarathBabu

.. Appellants/Accused 2-5

Vs.

State through

1.The Deputy Superintendent of Police,
Paramakudi Sub Division,
Ramanathapuram.

2.The Inspector of Police,
Emaneswaram Police Station,
Ramanathapuram District.
In Crime No.64 of 2023

.. Respondent/Complainant

3.G.Kannan

.. Defacto Complainant / Victim

Prayer : This Criminal Appeal is filed under Section 14(A)(2) of the
Schedule Caste and the Schedule Tribes (Prevention of Atrocities)



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Amendment Act, to call for the records relating to the order, dated 11.08.2023 made in CrI.M.P.No.1052 of 2023 on the file of the learned Sessions Judge, Special Court for Trial of Cases Registered under SC/ST (POA) Act, 1989, Ramanathapuram, and set aside the same and grant bail to the appellants by allowing this criminal appeal.

For Appellants : Mr.K.K.Udayakumar
For Respondents : Mr.M.Muthumanikkam
Government Advocate (Criminal Side)
for R1 and R2
: Ms.M.Sakundala Devi
for R3

JUDGMENT

The appellants are arrayed as Accused Nos.2 to 5 in Crime No.64 of 2023 on the file of the respondent police. They filed this Criminal Appeal against the impugned order passed in Cr.M.P.No.1052 of 2023 dated 11.08.2023, passed by the learned Special Judge, Special Court for Trial of Cases Under SC/ST (POA) Act, Ramanathapuram and seek bail.

2. Case of the Prosecution:

The defacto complainant and the deceased belongs to SC community.



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The defacto complainant, the deceased and other persons were purchased the grocery in the grocery shop namely 'Arunakaran Shop' situated at Jeeva Nagar, Paramakudi to Nainar Kovil Road. After purchasing the grocery, they are standing in front of the grocery shop. At that time, A1 namely Durai Murugan came in an auto and stare at them. Therefore, the deceased questioned the same. Immediately, A1 pushed the deceased. Hence, there was a scuffle. The defacto complainant tried to pacify them. Immediately, the said Durai Murugan contacted some person through phone and informed about the above said occurrence. Therefore, four more persons reached the spot. Durai Murugan and the other four persons questioned the deceased and assaulted both the defacto complainant and the deceased by hands. In the said assault, the deceased fell down. A1 stabbed the deceased in his left side chest. Therefore, the defacto complainant raised alarm and on hearing the noise, some other persons were reached the spot. On seeing them, the said five accused persons left the place after abusing the defacto complainant by calling his caste name and made a life threat to them. Thereafter, the deceased was taken to hospital and he died in the hospital. Hence, the defacto complainant made a complaint before the respondent police and the same was registered for the alleged offence under Sections 147, 148, 294(b), 323, 324, 506(ii), 302 IPC and 3(1)(r)(s), 3(2)(Va) of the SC/ST (POA) Act



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against the appellants and the other accused.

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2.1. Thereafter, the appellants were arrested on 24.07.2023. The respondent police registered the case against the said Durai Murugan and the remaining four accused persons without stating their name and address, hence, the presence of the petitioners itself is doubtful. Therefore, on this ground, they filed the bail petition in Cr.M.P.No.1052 of 2023 before the Special Court for Trial of Cases Under SC/ST (POA) Act, Ramanathapuram, seeking bail and the learned Special Judge dismissed the petition considering the gravity of the offence by the impugned order dated 11.08.2023. Challenging the same, the appellants have preferred this Criminal appeal.

3. The learned counsel for the appellants submitted that the petitioner's name were neither found in the FIR nor stated in the 161 Cr.P.C statement. The petitioners never attributed any overtact even according to the prosecution case. The charge against the petitioners is only under Section 147 and 148 IPC. In the said circumstances, the petitioners are inside the custody from 24.07.2023 onwards. Hence, he seeks for bail.

4. The learned Government Advocate (Criminal side) submitted that



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the occurrence has happened in a brutal manner and the petitioners are also the members of the unlawful assembly and in the event of the release of the petitioners, there is every possibility to tamper the witnesses. The learned Government Advocate(Criminal side) further submitted that the investigation was completed and Final Report was filed before the jurisdictional Special Court. He further submitted that after the completion of the investigation, proper final report was filed before the Special Court and the same was taken on file in Special S.C.No.42 of 2023. He further submitted that if the petitioners are released on bail, there is every possibility of retaliation and the tampering the witnesses since the petitioners and the victim are living in the same locality.

5. The defacto complainant filed the counter stating that since the petitioners are very powerful man in the locality, there is continuous life threat to the witnesses particularly to the defacto complainant. Further on release of bail there is chance of tampering of witnesses. So, he strongly objected to grant bail.

6. This Court has considered the rival submissions made by both the parties and perused the materials available on record.



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7. From the reading of FIR and the perusal of the final report, the prosecution alleged that these petitioners only form part of the unlawful assembly. There is no specific overtact attributed against the petitioners even as per the final report. A1 alone caused stab injury to the deceased. Further, as per the counter affidavit of the defacto complainant and the prosecution, there is no previous antecedents against the petitioners. Now the investigation also conducted and the same was taken on file in S.C.No.42 of 2023 only apprehension expressed by the prosecutor and the defacto complainant is that the petitioners are the resident of the locality of the deceased, hence, there is every possibility of tampering of witnesses. Except the above, there was no law and order problem said to happened in that area. Considering the above overall circumstances and also the incarceration of the petitioners and no bad antecedent is reported against the appellants, this Court is inclined to allow the Criminal Appeal with conditions, by setting aside the order, dated 11.08.2023 made in Cr.M.P.No.1052 of 2023 on the file of the Special Court for Trial of Cases Under SC/ST(POA) Act, Ramanathapuram.

8. Accordingly, the Criminal Appeal is allowed and the order, dated



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dated 11.08.2023 made in Cr.M.P.No.1052 of 2023 on the file of the Special Court for Trial of Cases Under SC/ST(POA) Act, Ramanathapuram, is set aside. The appellants are ordered to be released on bail on their 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, Ramanathapuram, 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, Ramanathapuram, may obtain a copy of their valid identity card to ensure their identity.

(b) the **appellants shall stay at Dindigul** and appear before the **Taluk Police Station, Dindigul** 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



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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.

20.09.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
PJL

To

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



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K.K.RAMAKRISHNAN, J.

PJL

Predelivery Order made in
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20.09.2023