

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.09.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.A.(MD).No.793 of 2023

1.Pamayan @ Nallathambi

2.Thangapandi

3.Saravanan

... Appellants

Vs.

1.The Deputy Supreintendent of Police
Rural Sub-Division in Pudur Police Station,
Thoothukudi District.
(Crime No.34 of 2023)

... Respondent
/ Complainant

2.Praveen

...2nd Respondent/
De-facto Complainant

PRAYER : Criminal Appeal filed under Section 14 A (2) of SC/ST (Prevention of Atrocities) Act, 1989 as amended by Act 1 of 2016, to call for the records relating to the order in Cr.M.P.No.774 of 2023 dated 21.08.2023, on the file of the learned Special Court for Trial of Cases Registered Under SC/ST (POA) Act 1989, Thoothukudi and set aside the same and grant bail to the appellant by allowing this Criminal Appeal.

For Appellant : Mr.M.Gangatharan

For Respondents : Mr.M.Muthumanikkam
Government Advocate (Crl.Side)
For R1

:Mr.V.Malaiyendran for R2

JUDGMENT

This Criminal Appeal has been filed to set aside the impugned order passed in Crl.M.P.No.774 of 2023 dated 21.08.2023, on the file of the learned Sessions Judge, Special Court for trial of Cases under SC/ST (PoA) Act, Thoothukudi, and enlarge the appellant on bail in connection with Crime No.34 of 2023, on the file of the second respondent police.

2.1. According to the prosecution, the appellant and the other accused said to have committed the offences under Sections 147, 148, 341, 294(b), 323, 324 of IPC, Section 3(1)(r), 3(1)(s) of SC/ST (PoA) Act 1989.

2.2. According to the prosecution, on 28.07.2023, at about 05.00p.m., Pudur to Paralatchi road, nearby, Krishna Gas Godown, when the

defacto complainant went to receive the money for driving JCB, one Kannan called him and saying that there was a problem at Anbu Mess and asked him to come there, and the defacto complainant went there, and at Anbu Mess when Kannan, Mareeswaran and the defacto complainant were talking about the problem, the appellants/accused and other accused were assembled unlawfully and scolded them with filthy language by using their caste name and assaulted them with sticks and stones, thereby caused injuries to them. Hence, the respondent Police registered a case in Crime No.34 of 2023 against the appellants, for the offences under Sections 147, 148, 341, 294(b), 323, 324 of IPC, Section 3(1)(r), 3(1)(s) of SC/ST (PoA) Act 1989. Hence, the appellants have filed a petition for bail in Cr.M.P.No. 774 of 2023, before the learned Sessions Judge, Special Court for Trial of cases under SC/ST (PoA) Act, and the same was dismissed on 21.08.2023. Challenging the same, the appellant has preferred this Criminal appeal.

3. The learned counsel for the appellant would submit that the appellants were falsely implicated in this case and the same has not been considered properly. The defacto complainant had suppressed the truth and

given a false narration, which is unacceptable. Further, it is a case and counter and the defacto-complainant and his men are aggressors. The appellants were arrested and remanded to the judicial custody from 31.07.2023. Under the said circumstance, he seeks bail.

4. The learned Government Advocate (Criminal Side) appearing for the State would submit that if the appellants/accused are released on bail, they will indulge in such offences; there is every chance of threatening and intimidating the witnesses; tampering with the investigation of the case, since the investigation has not been completed, as both parties are living in the same town, there is some dispute arose between two groups of people. Further he would submit that the injured persons are still taking treatment. Considering the seriousness of the offence, he seeks dismissal.

5. The learned counsel for the defacto complainant reiterated the above submission and stated that all the accused have attacked the defacto complainant brutally with sticks and stones. Till date there is a threat to the witnesses. Therefore, he seeks for dismissal of the bail petition.

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

7. Admittedly, there is an altercation between the appellants as well as the defacto complainant. Hence, a counter case has been registered. According to the prosecution, the investigation is almost completed. The appellants are confined at Sub-Jail, Thoothukudi, from 31.07.2023 onwards. Considering the period of incarceration, this Court is inclined to allow the Criminal Appeal by setting aside the order, dated 21.08.2023 made in Cr.M.P.No.774 of 2023 on the file of the learned Sessions Judge, Special Court for Trial of Cases Registered Under SC/ST (PoA) Act 1989, Thoothukudi.

8. Accordingly, the Criminal Appeal is allowed and the order dated 21.08.2023 made in Cr.M.P.No.774 of 2023 on the file of the learned Sessions Judge, Special Court for Trial of Cases Registered under SC/ST (PoA) Act 1989, Thoothukudi 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 Special Court for Trial of Cases Registered under SC/ST (PoA) Act 1989, 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 Registered under SC/ST (PoA) Act 1989, Thoothukudi, may obtain a copy of their valid identity card to ensure their identity.

(b) the appellant shall stay at Aruppukottai and report before the Aruppukottai Police Station, daily at 10.30 am, until the completion of the investigation.

(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 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.

15.09.2023

NCC :Yes/No

Index :Yes/No

Internet :Yes/No

sbn

Note: Issue order copy on 15.08.2023

To

- 1.The Special Court for Trial of Cases
Registered under SC/ST (PoA) Act 1989, Thoothukudi.
- 2.The Deputy Supreintendent of Police
Rural Sub-Division in Pudur Police Station,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 4.The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court, Madurai.

Crl.A.(MD).No.793 of 2023

K.K.RAMAKRISHNAN, J.

sbn

Crl.A.(MD).No.793 of 2023

15.09.2023