



Crl.A.(MD).No.861 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 30.10.2023

Pronounced on : 28.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.A.(MD).No.861 of 2023

1.Selvam

2.Panjavarnam

... Appellants/Accused Nos.2 & 3

Vs.

1.State through

The Assistant Commissioner of Police,
Thirupparankundram,
Madurai City.

2.State through

The Inspector of Police,
Thirupparankundram Police Station,
Madurai City.

...1st & 2nd Respondents/Complainants

3.Selvam

...3rd Respondent/De-facto

Complainant

PRAYER: Criminal Appeal filed under Section 14(A)(2) of SC/ST Act, 1989, to call for entire records pertaining to the order dated 07.09.2023 made in Crl.M.P.No.2760 of 2023 on the file of the III Additional District and Sessions Judge (PCR), Madurai and enlarge the appellants on bail.



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For Appellants : Mr.B.Muneeswaran
For R1 & R2 : Mr.B.Nambi Selvan
Additional Public Prosecutor
For R3 : Mr.R.Alagumani

JUDGMENT

The appellants have filed this Criminal Appeal to set aside the order dated 07.09.2023 made in Crl.M.P.No.2760 of 2023 on the file of the III Additional District and Sessions Court (PCR), Madurai and to enlarge the appellants on bail by allowing this appeal.

2.The brief facts of the prosecution case:

The appellants are arrayed as Accused Nos.2 and 3 in this case. Accused Nos.1 and 4 are their sons. Accused Nos.1 to 4 belonged to Piramalaikallar Community. The deceased Ramya belonged to Scheduled Community. Accused No.1 and the deceased worked at the same private hospital and they developed love affairs. As Accused No.1 and deceased were majors they married against the words of Accused Nos.2 to 4 and they lived separately. During their separate living whenever wordy quarrel arose,



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Accused No.1 used to scold the deceased by saying her caste. The deceased became pregnant, which was disliked by Accused No.2 to 4 and the accused started torture. Hence, the deceased attempted to suicide. Thereafter, Accused No.1 got back the deceased stating that he would take care of her. However, at the instigation of Accused Nos.2 to 4 and their abetment, on the occurrence day Accused No.1 attacked the deceased with rammer (Thimsu Kattai) indiscriminately and caused the murder of the deceased. Hence, the case was registered against the Accused Nos.1 to 4 in Crime No.224 of 2023 by respondent police for the offence under Sections 302 of IPC r/w 3(2)(v) of SC/ST Act. The respondent police did investigation and laid a charge sheet against the accused and the same was taken on cognizance in Spl.S.C.No.64 of 2023 by the Trial Court. The appellants who are Accused Nos.2 and 3 filed the second petition in Crl.M.P.No.2760 of 2023 for bail before the Trial Court and the same was dismissed as per order dated 07.09.2023.

3. Aggrieved by the dismissal of the bail petition, the appellants have preferred the present Criminal Appeal before this Court.

4. Heard both sides and perused the records in this Criminal Appeal.



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5. The learned counsel for the appellants has submitted that the appellants are arrayed as Accused Nos.2 and 3. Accused No.1 is their son, who married a girl of different caste, so their son was excommunicated and left from their family. The appellants did not know anything about the happenings between Accused No.1 and the deceased family. Already the appellants moved bail and the same was dismissed by the Trial Court as well as by this Court. The appellants filed the second bail petition in Crl.M.P.No.2760 of 2023 before the Trial Court and it was dismissed on 07.09.2023. The appellants are in judicial custody for more than 128 days and a charge sheet was filed and the same was taken on file as Spl.S.C.No.64 of 2023 by the Trial Court. So there is no possibility of tampering witnesses. But, the Trial Court dismissed the bail believing the version of threat made by the defacto complainant and also the fact that the bail moved by the appellants was dismissed by this Court. Because of earlier dismissal by this Court, the same cannot be revisited by another Criminal Appeal and every time the accused can approach the Court for bail. In support of his argument, the counsel for the appellants relied on the judgment passed by the **Allahabad High Court in Crl.Appeal No.9226 of 2022 dated 25.05.2023.**



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6. Per contra, the learned Additional Public Prosecutor appearing for the respondents 1 and 2 strongly opposed to grant bail to the appellants stating that the investigation was completed, which revealed the involvement of the appellants in the crime and laid charge sheet. There is no change in circumstances. The trial Court has correctly passed the impugned order.

7. The learned counsel for the defacto complainant submitted that at the time of marriage between the Accused No.1 and his daughter, he condemned as it would not safe for them who belonged to Scheduled caste. Under false promise, Accused No.1 married the deceased. After marriage, the accused tortured, so the deceased consumed poison. The deceased was admitted in the hospital, where her parents visited. The deceased told them that she was pregnant and the accused hurled abusive words by stating her caste name, so after recovery, the defacto complainant took her back to their home. Then, Accused No.1 again took her back with assurance. But the accused committed brutal murder of the deceased, as honor killing. The charge was laid and the case was taken on file. The appellants would not take advantage as charge sheet filed, still the appellants have opportunity to tamper and hamper the evidence and therefore prays direction for speedy trial. Further, once earlier



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bail was negative, the second one would amount to review its earlier order, so the Court becomes functus officio in entertaining the second bail. The learned counsel relied on the judgement reported in **(2001) 1 Supreme Court Cases, 169** and the judgment in **Crl.Appeal No.1797 of 2022 dated 12.04.2023** passed by the **High Court of Chhattisgarh**.

8. On hearing both side rival arguments and on perusal of records, it is clear that the deceased belonged to scheduled caste and Accused belonged to other caste. It is also clear that at the time of marriage the appellants condemned and also the defacto complainant thought it would not safe to her daughter. It is also clear that in an earlier occasion the deceased attempted to suicide as the accused alleged to have tortured by using caste name. Accused No.1 took her with assurance of taking care. However, the occurrence took place at the hometown of the accused, that too in the house of the Accused No. 1. The appellants alleged to have abetted Accused No.1 for commission of crime upon deceased and after investigation charge sheet was laid and they are facing trial. Mere filing charge sheet, it would not mean that the accused are entitled to right of bail. Each and every case is to be looked into with gravity of alleged offence. In this case a pregnant woman belonged to scheduled caste



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was murdered brutally as seen from photos filed along with counter. The defecto complainant stated it is honor killing, which is denied by the appellants. When charge sheet is filed these facts would be decided only after adducing evidence. At this stage, though the appellants are in custody for more than 120 days, considering the alleged nature of brutal murder and heinous nature of crime, this Court is not inclined to grant bail.

9. In the result, this Criminal appeal stands dismissed.

28.11.2023

NCC :Yes/No
Index :Yes/No
Internet :Yes/No
vsd



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To

- 1.The III Additional District and Sessions Judge (PCR),
Madurai.
- 2.The Assistant Commissioner of Police,
Thirupparankundram,
Madurai City.
- 3.The Inspector of Police,
Thirupparankundram Police Station,
Madurai City.
- 4.The Central Prison, Madurai.
- 5.The Women Central Prison, Madurai.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 7.The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
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28.11.2023