



Crl.A.(MD).No.876 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.10.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.A.(MD).No.876 of 2023

Jeya Muthulingam @ Muthulingam

... Appellant /
Accused No.3

Vs.

1.The Deputy Supreintendent of Police
Thoothukudi Town Division,
Thoothukudi.

2.The Inspector of Police,
Thoothukudi South Police Station,
Thoothukudi.
Crime No.618 of 2022

... 1st & 2nd Respondents
/ Complainants

3.Radha

... 3rd 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 in Crl.M.P.No.741 of 2023 in S.C.No.23 of 2023 dated 08.08.2023 pending on the file of the learned Session Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi and set aside the



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same and enlarge the appellant on bail in connection with Crime No.618 of 2022 on the file of the respondent police by allowing this Criminal Appeal.

For Appellant : Mr.M.Manokumar
For R1 & R2 : Mr.B.Nambi Selvan
Additional Public Prosecutor
For R3 : No Appearance

JUDGMENT

This Criminal Appeal has been filed to set aside the order passed in Crl.M.P.No.741 of 2023 in S.C.No.23 of 2023 dated 08.08.2023 pending on the file of the learned Session Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi, and enlarge the appellant on bail in connection with Crime No.618 of 2022, on the file of the second respondent police.

2. According to the prosecution, the appellant and the other accused said to have committed the offences under Sections 147, 148, 294(b), 324, 307, 302, 506(ii), 109, 120(b) of IPC and Section 3(1)(r), 3(1)(s), 3(2)(v) of SC/ST (PoA) Amendment Act.



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3.The case of the prosecution is that on 13.11.2022 at about 04.30 pm., the appellant/Accused No.3 along with other accused had unlawfully assembled and abused the *de-facto* complainant's son and her husband by using their caste name and that during the course of the quarrel, the appellant along with the other accused had wrongfully restrained the *de-facto* complainant's son and murdered the *de-facto* complainant's husband. Hence, the second respondent Police registered a case in Crime No.618 of 2022 against the appellant and the other accused persons, for the offences under Sections 147, 148, 294(b), 324, 307, 302, 506(ii), 109, 120(b) of IPC, Section 3(1)(r), 3(1)(s), 3(2)(v) of SC/ST (PoA) Amendment Act. Hence, the appellant has filed a petition for bail in Crl.M.P.No.741 of 2023, before the learned Sessions Judge, Special Court for Trial of cases under SC/ST (PoA) Act, and the same was dismissed on 08.08.2023. Challenging the same, the appellant has preferred this Criminal Appeal.

4. The learned counsel for the appellant would submit that the appellant did not involve in any occurrence as alleged by the prosecution. The appellant was arrested and remanded to judicial custody



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from 14.11.2022 in Central Jail, Palayamkottai, Tirunelveli District.

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He would further submit that this Court has already granted bail to the Accused Nos.1, 2 and 4 in Crl.A(MD)No.776 of 2023, Crl.A(MD)No.753 of 2023 and Crl.A(MD)No.382 of 2023 and hence, he seeks bail to the appellant.

5. The learned Additional Public Prosecutor appearing for the State would submit that in this case investigation has been completed and final report has also been filed under Sections 294(b), 324, 307, 302, 506(2), 109, 34 of IPC and Sections 3(1)(r), 3(1)(s), 3(2)(v) of SC/ST (POA) Act and the same has been taken on file in S.C.No.23 of 2023 on the file of the Special Court for Trial of SC/ST (POA) Act Cases, Thoothukudi. He would further submit that co-accused were already granted bail by this Court.

6. It is seen that the appellant was arrested on 14.11.2022, from that date onwards, he is in judicial custody. Now the charge sheet has also been filed before the Special Court for Trial of SC/ST (POA) Act Cases,



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Thoothukudi District and the same has been taken on file in S.C.No.23 of 2023 and the co-accused were already granted bail by this Court.

7. Considering the above facts and circumstances and also considering the period of incarceration, this Court is inclined to allow the Criminal Appeal by setting aside the order, dated 08.08.2023 passed in Crl.M.P.No.741 of 2023 on the file of the learned Sessions Judge, Special Court for Trial of SC/ST (POA) Act cases, Thoothukudi.

8. Accordingly, this Criminal Appeal is allowed and the order dated 08.08.2023 passed in Crl.M.P.No.741 of 2023 on the file of the learned Sessions Judge, Special Court for Trial of SC/ST (POA) Act cases, Thoothukudi District, 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 learned Sessions Judge, Special Court for Trial of SC/ST (POA) Act cases, Thoothukudi, and on further conditions that:

(a) the sureties shall affix their photographs and Left Thumb



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Impression in the surety bond and the Special Court for Trial of SC/ST (POA) Act cases, Thoothukudi, may obtain a copy of their valid identity card to ensure their identity.

(b) the appellant shall stay at Madurai and report before the Thallakulam Police Station, daily at 10.30 am, until further orders, except hearing dates.

(c) the appellant shall not tamper with evidence or witnesses.

(d) On breach of any of the aforesaid conditions, the learned Trial Court is entitled to take appropriate action against the appellant in accordance with law as if the conditions have been imposed by the Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005) AIR SCW 5560]**.

(e) If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

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NCC :Yes/No
Index :Yes/No
Internet :Yes/No
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To

- 1.The Session Judge,
Special Court for Trial of Cases under SC/ST (POA) Act,
Thoothukudi.
- 2.The Deputy Superintendent of Police
Thoothukudi Town Division,
Thoothukudi.
- 3.The Inspector of Police,
Thoothukudi South Police Station,
Thoothukudi.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 5.The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

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