



Crl.A.(MD).No.879 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 17.10.2023

Pronounced on : 10.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.A.(MD).No.879 of 2023

Anthonydhas

... Appellant / Accused No.1

Vs.

1.The Deputy Superintendent of Police,
Thuckalay Sub Division,
Kanyakumari District.

2.The Inspector of Police,
Boothapandy Police Station,
Kanyakumari District.
(In Crime No.181 of 2023)

...1st & 2nd Respondents/
Complainants

3.Subramani

...3rd Respondent/De-facto
Complainant

PRAYER: Criminal Appeal filed under Section 14(A)(2) of SC/ST Act, 1989 as amended by Act 1 of 2016, to call for the records pertaining to the order dated 20.09.2023 in Crl.M.P.No.3549 of 2023 on the file of the II Additional District and Sessions Judge (PCR), Tirunelveli and to set aside the same and enlarge the appellant in connection with Crime No.181 of



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2023 on the file of the second respondent police by allowing this Criminal Appeal.

For Appellant : Mr.S.Sukumar
For R1 & R2 : Mr.B.Nambi Selvan
Additional Public Prosecutor
For R3 : Mr.Subramani (Party in person)

JUDGMENT

This appeal is filed to set aside the order dated 20.09.2023 passed in Crl.M.P.No.3549 of 2023 on the file of the learned II Additional District and Sessions Judge (PCR), Tirunelveli and enlarge the appellant on bail in connection with Crime No.181 of 2023 on the file of the second respondent police.

2.According to the prosecution the appellant and other accused said to have committed the offence punishable under Sections 294(b), 307, 506(ii) of IPC and Sections 3(1)(r), 3(1)(s), 3(2)(v) of SC/ST (POA) Act.



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3.The case of the prosecution is that on 30.08.2023 at about 7.38 p.m., the appellant/Accused No.1 contacted the de-facto complainant over phone and asked him to come to the shop. While, the de-facto complainant went to that place, at that time the appellant/Accused No.1 abused the de-facto complainant by using filthy language mentioning his caste name. The appellant and other accused persons attacked the de-facto complainant with Aruval and also threatened him with dire consequences. Due to that the de-facto complainant sustained a cut injury on his hand. Hence, the *de-facto* complainant lodged a complaint before the respondent police and F.I.R was registered in Crime No.181 of 2023 against the appellant and other accused for the offences under Sections 294(b), 307, 506(ii) IPC and Sections 3(1)(r), 3(1)(s), 3(2)(v) of SC/ST (POA) Act.

4.The learned counsel for the appellant would submit that the appellant did not involve in this case as alleged by the prosecution. There is a landlord and tenant dispute between the appellant and the third respondent and the third respondent/*de-facto* complainant has not sustained any injury and he was treated as out patient. He would further submit that the appellant



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is aged about 58 years and he was arrested and remanded to judicial custody on 01.09.2023 and all other accused have already been released on bail. Hence, he seeks to grant bail to the appellant.

5.The learned Additional Public Prosecutor appearing for the first and second respondents would submit that totally there are four accused in this case and the appellant herein arrayed as Accused No.1. The appellant/Accused No.1 and other accused persons attacked the *de-facto* complainant with Aruval and also criminally intimidated him. He would further submit that the appellant is having two previous murder case and in this case investigation has almost over and he prayed to dismiss this appeal.

6.The third respondent/*de-facto* complainant would submit that the appellant has already involved in two murder case and if the appellant/Accused No.1 is released on bail, he will threaten the witnesses and also tamper the evidence. Hence, he seeks to dismiss the appeal.



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7.It is seen that the appellant was arrested and remanded to judicial custody on 01.09.2023 and the co-accused were already released on bail and the injured was treated as out patient.

8.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 20.09.2023 passed in Crl.M.P.No.3549 of 2023 on the file of the learned II Additional District and Sessions Judge (PCR), Tirunelveli.

9. Accordingly, the Criminal Appeal is allowed and the order dated 20.09.2023 passed in Crl.M.P.No.3549 of 2023 on the file of the learned II Additional District and Sessions Judge (PCR), Tirunelveli., 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 II Additional District and Sessions Judge (PCR), Tirunelveli, and on further conditions that:



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(a) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Additional District and Sessions Court (PCR), Tirunelveli, may obtain a copy of their valid identity card to ensure their identity.

(b) the appellant shall stay at Madurai and report before the Thideer Nagar Police Station, daily twice i.e. at 10.30 a.m and 5.30 p.m. 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.

.10.2023

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



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To

- 1.The II Additional District and Sessions Judge (PCR),
Tirunelveli.
- 2.The Deputy Superintendent of Police,
Thuckalay Sub Division,
Kanyakumari District.
- 3.The Inspector of Police,
Boothapandy Police Station,
Kanyakumari District.
- 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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vsd

Pre - Delivery Order made in
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