



CrI.A.(MD).No.893 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 04.10.2023

Pronounced on : 09.10.2023

CORAM:

**THE HONOURABLE MR.JUSTICE P.VADAMALAI**

CrI.A.(MD).No.893 of 2023

Mari @ Marisamy

... Appellant / Accused No.1

Vs.

1.The State represented by  
The Assistant Superintendent of Police,  
Aruppukottai Sub Division,  
Virudhunagar District.

...1<sup>st</sup> Respondent/Investigating  
Officer

2.State represented by  
The Inspector of Police,  
Kariapatti Police Station,  
Virudhunagar District.  
(In Crime No.141 of 2023)

...2<sup>nd</sup> Respondent/Complainant

3.M.Ramamoorthi

...3<sup>rd</sup> Respondent/De-facto  
Complainant

**PRAYER:** Criminal Appeal filed under Section 14(A)(2) of SC/ST (Prevention of Atrocities) Act, 2015 as amended by Act 1 of 2016, to call for the records pertaining to the order passed in Cr.M.P.No.3051 of 2023 on the



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file of the Sessions Judge, Special Court for Trial of SC/ST (POA) Act cases, Virudhunagar District at Srivilliputhur, dated 14.09.2023 and set aside the same and enlarge the appellant on bail by allowing this criminal appeal.

For Appellant : Mr.S.Ramsundarvijayraj  
For R1 & R2 : Mr.B.Nambi Selvan  
Additional Public Prosecutor  
For R3 : Mr.P.Satheskumar

### **JUDGMENT**

This appeal is filed to set aside the order passed in Cr.M.P.No. 3051 of 2023, dated 14.09.2023 on the file of the learned Sessions Judge, Special Court for Trial of SC/ST (POA) Act cases, Virudhunagar District at Srivilliputhur and enlarge the appellant on bail in connection with Crime No.141 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 147, 148, 294(b), 323, 324, 506(2), 302 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 27.06.2023 at about 10.00 p.m., when the *de-facto* complainant's father namely Mayakrishnan was sitting in front of his house and was having food, at that time 10 persons, who belonged to Thevar Community came there and asked him in the following manner “எவ்வளவு திமிருந்தா நாங்கள் வரும்போது உட்கார்ந்து கொண்டிருப்பீர்” and the accused Shanmuganathan @ Sathasivam kicked the *de-facto* complainant's father and assaulted on his head with wooden log and the appellants and other accused persons said to have attacked the *de-facto* complainant's father and also threatened him with dire consequences. Due to that the *de-facto* complainant's father had crush injuries on his head and was died on 30.06.2023. Hence, the *de-facto* complainant lodged a complaint before the respondent police and F.I.R was registered in Crime No.141 of 2023 against the appellant and other accused persons for the offences under Sections 147, 148, 294(b), 323, 324, 506(2), 302 of 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 case of the prosecution is entirely false and the case is a foisted one against the



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appellant and he has not committed any offence as alleged by the prosecution. He would further submit that the deceased was convicted earlier and sentenced for murdering his wife and he was in prison for 12 years and subsequently coming out from the prison and involved in sexually harassing the village ladies, in which, he misbehaved with one lady Vasuki. He would further submit that the appellant was arrested and remanded to judicial custody on 01.07.2023 and he is in judicial custody for more than 95 days and the respondent police has completed the investigation and filed charge sheet before the Special Court for Trial of SC/ST (POA) Act Cases, Srivilliputhur. He would further submit that the appellant is willing to produce sufficient sureties for the appearance and the appellant will never abscond and will not tamper the witnesses and 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 seven accused in this case and investigation has been completed and final report has also been filed under Sections 147, 148, 149, 114, 294(b), 323, 302, 506(2) of



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IPC and Sections 3(1)(r), 3(1)(s), 3(2)(v), 3(2)(va) of SC/ST (POA) Act before the Special Court for Trial of SC/ST (POA) Act Cases, Srivilliputhur by deleting one of the accused namely Sathish and final report has yet to be taken on file. He would further submit that due to this occurrence tension prevailed in the said village and this appellant attacked the deceased with wooden log on his head, which resulted the death of deceased and he raised strong objection and prayed to dismiss this appeal.

6.The learned counsel for the third respondent/*de-facto* complainant would submit that only 15 families belonged to the *de-facto* complainant are residing in the said village and more than 150 families of accused's community are residing in the said village and if the accused person is released on bail, he will threaten the witnesses and also tamper the evidence. Hence, he seeks to dismiss the appeal.

7.On perusal of records it is seen that the appellant herein is arrayed as main accused. The specific overt act as against the appellant is that he attacked the deceased with wooden log on his head, therefore the



8. Considering the above facts and circumstances and considering the specific overt act against the appellant and gravity of the offence alleged against the appellant and also considering the strong objection raised by the prosecution, this Court is not inclined to allow this appeal and to grant bail to the appellant at this stage.

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To

- 1.The Sessions Judge,  
Special Court for Trial of SC/ST (POA) Act cases,  
Virudhunagar District at Srivilliputhur.
- 2.The Assistant Superintendent of Police,  
Aruppukottai Sub Division,  
Virudhunagar District.
- 3.The Inspector of Police,  
Kariapatti Police Station,  
Virudhunagar 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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**P.VADAMALAI, J.**

vsd

Pre - Delivery Order made in  
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