



Crl.A.(MD).No.958 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

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Mothilal @ Moorthi

... Appellant / Accused No.2

Vs.

1.State through

The Deputy Superintendent of Police,
Sivakasi Sub Division,
Virudhunagar District

2.The State represented by

The Inspector of Police,
Sivakasi East Police Station,
Virudhunagar District.

(Crime No.400 of 2023)

... 1st & 2nd Respondents / Complainants

3.Marimuthu

...3rd Respondent/De-facto Complainant

PRAYER : Criminal Appeal filed under Section 14 A (2) of SC/ST (Prevention of Atrocities) Amendment Act, to set aside the order of the learned Sessions Judge, Special Court for Trial of SC/ST (POA) Act Cases, Virudhunagar District at Srivilliputhur in Crl.M.P.No.3346 of 2023 dated 09.10.2023 and enlarge the appellant/Accused No.2 on bail in Crime No. 400 of 2023 on the file of the first respondent police.



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For Appellant : Mr.M.Jegadeesh Pandian
For R1 & R2 : Mr.B.Nambi Selvan
Additional Public Prosecutor
For R3 : Mr.Marimuthu (Party in Person)

JUDGMENT

This Criminal Appeal has been filed to set aside the order made in Cr.M.P.No.3346 of 2023 dated 09.10.2023 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/Accused No.2 on bail in Crime No.400 of 2023 on the file of the second respondent police.

2. According to the prosecution, the appellant and other accused persons said to have committed the offences under Sections 294(b), 341, 342, 323, 324, 307, 506(ii) of IPC r/w Sections 3(1)(r), 3(1)(s), 3(2)(v) of SC/ST (POA) Amendment Act, 1989.



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3.The case of the prosecution is that on 24.09.2023, when the defacto complainant went to Chakra bar at Paraipatti, Ramesh/Accused No. 1 introduced his friends namely Balaji and Mothilal @ Moorthi/ appellant herein to the defacto complainant. At that time, they demanded drinks and snacks from the defacto complainant, but the defacto complainant refused. Due to which, there was a wordy quarrel arose between them, in which, the accused persons abused the defacto complainant in filthy language and also assaulted him. Subsequently, the Accused Nos.1 and 3 waylaid the defacto complainant and caught hold of him, the appellant/Accused No.2 abused him by using his caste name and assaulted the defacto complainant and caused injury. Hence, the *de-facto* complainant lodged a complaint before the respondent police and the case has been registered in Crime No.400 of 2023 against the appellant and other accused persons for the offences under Sections 294(b), 341, 342, 323, 324, 307, 506(ii) of IPC r/w Sections 3(1) (r), 3(1)(s), 3(2)(v) of SC/ST (POA) Amendment Act, 1989. Therefore, the appellant has filed a petition for bail in Cr.M.P.No.3346 of 2023, before the learned Sessions Judge, Special Court for Trial of cases under SC/ST (PoA)



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Act, Srivilliputtur (FAC) and the same was dismissed on 09.10.2023.

Challenging the same, the appellant has preferred this Criminal Appeal.

4. The learned counsel for the appellant would submit that the appellant is an innocent and he has been falsely implicated in this case. He would further submit that the appellant was arrested and remanded on 25.09.2023 and he is in judicial custody for the past 58 days in District Prison, Virudhunagar. He would further submit that the major part of the investigation is almost completed and the co-accused/Accused No.3 was granted bail by this Court on 17.11.2023 and hence, he seeks to grant bail to the appellant.

5. The learned Additional Public Prosecutor appearing for the State would submit that totally there are three accused in this case and the appellant herein arrayed as Accused No.2. He would further submit that the appellant is having ten previous cases and if the appellant is ordered to be released on bail, stringent conditions may be imposed.



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6.The third respondent/de-facto complainant appeared in person and submitted that he was discharged from the hospital on the very next day and however objected to release the appellant on bail.

7.Considering the above facts and circumstances and also considering the period of incarceration and also the fact that the investigation is almost over and the co-accused was already released on bail, this Court is inclined to allow the Criminal Appeal by setting aside the order, dated 09.10.2023 passed in Cr.M.P.No.3346 of 2023 on the file of the learned learned Sessions Judge, Special Court for Trial of SC/ST (POA) Act Cases, Virudhunagar District at Srivilliputhur.

8. Accordingly, this Criminal Appeal is allowed and the order dated 09.10.2023 passed in Cr.M.P.No.3346 of 2023 on the file of the learned learned Sessions Judge, Special Court for Trial of SC/ST (POA) Act Cases, Virudhunagar District at Srivilliputhur, 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



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for a like sum to the satisfaction of the Special Court for Trial of SC/ST (POA) Act Cases, Virudhunagar District at Srivilliputhur, 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 SC/ST (POA) Act Cases, Virudhunagar District at Srivilliputhur, may obtain a copy of their valid identity card to ensure their identity.

(b) the appellant shall stay at Trichy and report before the Cantonment Police Station, daily twice i.e. at 10.30 a.m. and 5.30 p.m., until further orders, except on hearing dates.

(c) the appellant shall not tamper with evidence or witnesses, during investigation or trial.

(d) the appellant shall co-operate with the investigation.

(e) 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 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**



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[(2005) AIR SCW 5560].

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(f) 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
vsd

To

- 1.The District Prison,
Virudhunagar.
- 2.The Sessions Judge, Special Court for Trial of SC/ST (POA) Act Cases,
Virudhunagar District at Srivilliputhur.
- 3.The Deputy Superintendent of Police,
Sivakasi Sub Division,
Virudhunagar District
- 4.The Inspector of Police,
Sivakasi East Police Station,
Virudhunagar District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 6.The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court, Madurai.

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