



*Crl. A.(MD)No.1002 of 2023*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 27.11.2023

Pronounced on : 22.12.2023

CORAM

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

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Ayyappan

... Appellant

Vs.

1.State through  
The Deputy Superintendent of Police,  
Cheranmahadevi Sub Division,  
Tirunelveli District.

2.The Inspector of Police,  
Munneerpallam Police Station,  
Tirunelveli District.

3.Sangilimuthu

.. Respondents

**Prayer :** This Criminal Appeal is filed under Section 14(A)(2) of SC/ST (POA) Amendment Act, 2015, to call for the records relating to the impugned order passed in Crl.M.P.No.4231 of 2023 dated 27.10.2023 on the file of the learned II Additional District and Sessions Judge (PCR) (FAC), Tirunelveli District and set aside the same



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as illegal and arbitrary and enlarge the appellant/accused No.5 in Crime No.408 of 2021 on the file of the second respondent on bail by allowing the appeal.

For Appellants : Mr.K.Jeyamohan  
For R1 and R2 : Mr.B.Nambiselvan  
Additional Public Prosecutor

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### **JUDGMENT**

This Criminal Appeal has been filed to call for the records relating to the impugned order passed in Crl.M.P.No.4231 of 2023 dated 27.10.2023 on the file of the learned II Additional District and Sessions Judge (PCR) (FAC), Tirunelveli District and set aside the same as illegal and arbitrary and enlarge the appellant/accused No.5 in Crime No.408 of 2021 on the file of the second respondent on bail by allowing the appeal.

2. The case of the prosecution is that on 15.09.2021, the accused persons had hatched the criminal conspiracy to eliminate one person belonging to SC community in retaliation to the murder of one Sankara Subramanian and at about 05.30 a.m., way laid the deceased Mariappan, that the appellant/fifth accused and the accused 1, 2, and 3 had abused him by using his caste name and attacked him with sickle indiscriminately, that the appellant had taken the severed head of the deceased



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and placed it near Tasmac shop, Vaduvurpatti where the said Sankara Subramanian was murdered and on the basis of the complaint given by the third respondent/defacto complainant, FIR came to be registered in Crime No.408 of 2021 and that the respondent police, after completing the investigation, has filed the final report for the offences under Sections 302, 147, 148, 341, 294(b), 120B, 201 and 342 IPC and Sections 3(l)(r), 3(l)(s) and 3(2)(va) of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 against 10 persons including the appellant herein and the case was taken on file in S.C.No.20 of 2022 and the same is pending on the file of the II Additional Sessions Court, (PCR) Tirunelveli.

3. The learned counsel appearing for the appellant would submit that this the second Criminal Appeal, earlier appeal filed by the appellant was dismissed on the ground that the appellant is having another murder case. He further submitted that the appellant's name does not find place in the FIR and only on the basis of the confession alleged to have been taken from the first accused, the appellant has been implicated falsely, that the appellant is in judicial custody from 16.09.2021, that the co-accused were already granted bail and that therefore, the appellant may be released on bail.



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4. The learned Additional Public Prosecutor (Criminal Side) appearing for the respondents 1 and 2 would submit that it is a case of retaliation of murder, that there existed communal disputes and clashes between the Hindu Maravar Community and the Scheduled Caste Community for the past 10 years, that both the sides had been committing murder after murder to take revenge on the other side, that the appellant alone has taken the severed head of the deceased and placed it in the spot where one Sankara Subramanian belonging to the community of the accused persons was murdered, that the appellant is having one previous case for murder. He further submitted that the investigation has been completed and the charge sheet was also filed before the concerned Court.

5. The third respondent/de-facto complainant appeared in person and stated that if the appellant is released on bail, there would be danger to his life. Hence he objected to release the appellant on bail.

6. Considering the above facts and circumstances and also considering the fact that the co-accused were arrested and thereafter released on bail by this Court and the investigation has been completed and the charge sheet has been filed and also considering the period of incarceration, this Court is inclined to allow the Criminal Appeal by setting aside the order dated 27.10.2023 passed in Crl.M.P.No.4231 of



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2023 on the file of the learned II Additional District and Sessions Judge (PCR) (FAC), Tirunelveli District.

7. Accordingly, this Criminal Appeal is allowed and the order dated 27.10.2023 passed in Crl.M.P.No.4231 of 2023 on the file of the II Additional District and Sessions Judge (PCR) (FAC), Tirunelveli 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 II Additional District and Sessions Judge (PCR) (FAC), Tirunelveli District, and on further conditions that:

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

(b) the appellant shall appear before the respondent police daily at 10.30 a.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.



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(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 [(2005) AIR SCW 5560]**.

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

22.12.2023

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To

- 1.II Additional District and Sessions Judge (PCR) (FAC),  
Tirunelveli District.
- 2.The Deputy Superintendent of Police,  
Cheranmahadevi Sub Division,  
Tirunelveli District.
- 3.The Inspector of Police,  
Munneerpallam Police Station,  
Tirunelveli District.
- 4.The Superintendant,  
Central Prison,  
Palayamkottai.
- 5.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**P.VADAMALAI, J**

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