



Crl. A.(MD)No.1073 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 13.12.2023

Pronounced on : 18.12.2023

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THE HONOURABLE MR. JUSTICE P.VADAMALAI

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Dhivakar

... Appellant

Vs.

1.The Deputy Superintendent of Police,
Bodi Sub Division,
Theni.

2. The Inspector of Police,
Chinnamanur Police Station,
Theni.

3.Murugeswari

... Respondents

Prayer : This Criminal Appeal is filed under Section 14-A(2) of SC/ST Act 1989 as amended by Act 1 of 2016, to call for the records in Crl.M.P.No.1251 of 2023 in Crime No.465 of 2023 dated 17.11.2023 pending on the file of the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Theni and set aside



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the same and enlarge the appellant on bail in connection with the crime No.465 of 2023 on the file of the second respondent by allowing this Criminal Appeal.

For Appellant : Mr.S.Anandha Rajagopal
For R1 and R2 : Mr.B.Nambiselvan
Additional Public Prosecutor
For R3 : Appeared in person

JUDGMENT

This Criminal Appeal has been filed to call for the records in Crl.M.P.No. 1251 of 2023 in Crime No.465 of 2023 dated 17.11.2023 pending on the file of the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Theni and set aside the same and enlarge the appellant on bail.

2. According to the prosecution the appellant and other accused said to have committed the offence punishable under Sections 294(b), 352 of IPC and Sections 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST (Prevention of Atrocities) Act, 1989.

3.The case of the prosecution is that the appellant's mother borrowed money from the defacto complainant, while being so, on 18.07.2023 at about 6 p.m, the defafacto complainant along with her husband went to the appellant house and



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asked to return the money, at that time, the appellant along with his mother abused the defacto complainant in filthy language and also pushed her out of their house.

Hence, the *de-facto* complainant lodged a complaint before the respondent police and the case has been registered in Crime No.465 of 2023 against the appellant for the offences under Sections 294(b), 352 of IPC and Sections 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST (Prevention of Atrocities) Act, 1989. Therefore, the appellant has filed a petition for bail in Crl.M.P.No.1251 of 2023, before the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Theni, and the same was dismissed on 17.11.2023. 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. He further submitted that Co-accused namely, A1 was arrested and thereafter, released on bail by the trial Court. He further submitted that the defacto complainant has not disclosed the quantum of money allegedly borrowed by the appellant's mother and also submitted that the defacto complainant has not sustained any injuries. 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



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witnesses. The appellant surrendered before the Special Court for trial of Cases under SC/ST (POA) Act, Theni as per the order of this Court dated 20.10.2023 and he is in judicial custody from 13.11.2023.

5. The learned Additional Public Prosecutor appearing for the respondent police submitted that the appellant's mother borrowed money from the defacto complainant and she did not repay the same and also abused the defacto complainant by calling her caste name and also attacked her.

6.The third respondent/de-facto complainant appeared in person and objected to release the appellant on bail.

7.Considering the above facts and circumstances and also the fact that the co-accused were arrested and thereafter released on bail by the trail Court and also considering the period of incarceration, this Court is inclined to allow the Criminal Appeal by setting aside the order dated 17.11.2023 passed in Crl.M.P.No.1251 of 2023 on the file of the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Theni.



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8. Accordingly, this Criminal Appeal is allowed and the order dated 17.11.2023 passed in Crl.M.P.No.1251 of 2023 on the file of the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Theni, 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 Cases under SC/ST (POA) Act, Theni, and on further conditions that:

(a) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Theni, 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 am., until further orders.

(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.

18.12.2023

Index : Yes/No

Internet : Yes/No

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To

1. learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Theni.

2. The Deputy Superintendent of Police,
Bodi Sub Division,
Theni.

3. The Inspector of Police,
Chinnamanur Police Station,
Theni.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J

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