



Crl.A.Nos.61 and 114 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.Nos.61 and 114 of 2024

Nagaraj @ Nagarajan

... Appellant in
Crl.A.No.61/2024

Vigneshwaran

... Appellant in
Crl.A.No.114/2024

Vs.

1.State rep. By
The Assistant Commissioner of Police,
Adayar Circle, Adayar,
Chennai.

2.The Inspector of Police,
W20, All Women Police Station,
Saidapet, Chennai – 15.
[Crime No.09 of 2023]

3.Sarala

... Respondents

PRAYER: Criminal Appeal filed under Section 14A(2) of the Scheduled
Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989, to set



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aside the order dated 04.01.2024 in Crl.M.P.Nos.33009 and 33010 of 2023 on the file of the learned Principal Sessions Judge cum Special Judge for the cases under SC/ST[POA] Act, 1989, Chennai and enlarge the appellants on bail pending investigation in Crime No.09 of 2023 on the file of the second respondent.

For Appellant
in Crl.A.No.61/2024 : Mr.S.Anantha Narayanan
Senior Counsel
for Mr.S.M.Nandhie Devhan

For Appellant
in Crl.A.No.114/2024 : Mr.R.Sasikumar

For R1 & R2
in both Crl.As : Mr.S.Raja Kumar,
Additional Public Prosecutor

For R3 in
both Crl.As : Mr.K.Seetharam

COMMON JUDGMENT

Crl.A.No.61 of 2024 is filed by A2 in Crime No.9 of 2023 and Crl.A.No.114 of 2024 is filed by A1 in Crime No.09 of 2023. Both the appellants filed bail application before the learned Principal Sessions Judge



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cum Special Judge for the cases under SC/ST[POA] Act, 1989, Chennai in Crl.M.P.Nos.33009 and 33010 of 2023, which was dismissed by a common order dated 04.01.2024. Against which, the present appeals are filed.

2.The third respondent/defacto complainant lodged a complaint to the second respondent police on 22.11.2023 and a case in Crime No.9 of 2023 for the offence under Sections 417, 376, 506(ii) IPC r/w. Section 3(2)(v) of SC/ST [Prevention of Atrocities] Act, 1989 was registered against the appellants and one Nagajothi. The defacto complainant lodged a complaint on 06.10.2023 stating that she completed Diploma in Beautician and working in Phoenix Mall, Velacherry. A1 had love affair with the third respondent and promised to marry her. On 27.01.2023, Nagarajan/A2 and Nagajothi/A3, father and sister of A1, came to the house of the third respondent and fixed the marriage between the third respondent and A1. Their relationship was smooth, the third respondent and A1 moved in close quarters. Thereafter, they deceived by their conduct. A1 took a rented house at Nungambakkam and the third respondent frequently visited their, at that time, they had physical relationship. The third respondent became



pregnant, later A1 requested her to abort the foetus informing that the marriage ceremony is yet to be conducted and thereafter, the foetus was also aborted. Thereafter, A1 changed his colour and started avoiding the third respondent. When the third respondent approached the parents of A1 and sister, they were also not helpful and A1 to A3 started citing the caste of the third respondent/defacto complainant being unacceptable to them and chased her away. Having no other alternative, the third respondent lodged a complaint, a case was registered and the accused were arrested.

3.This Court on earlier occasions i.e., on 08.02.2024 and 05.03.2024, passed the following orders:

Proceedings on 08.02.2024:

The petitioner/Vigneshwaran in Crl.A.No.114 of 2014 is arrayed as A1 and the petitioner/Nagaraj @ Nagarajan, who is the father of first accused, in Crl.A.No.61 of 2024 is arrayed A2 in Cr.No.9 of 2023.

2.The case of the prosecution is that one Sarala/third respondent herein after completing Diploma in Beautician, working in a Mall in Velachery. While so, one Vigneshwaran, got love affair with the defacto complainant



and he promised to marry her. Thereafter, on 27.01.2023, the said Vigneshwaran, his father, and his sister Nagajothi came to the house of the defacto complainant and fixed marriage between them. Thereafter, their love went to the next level and they had physical relationship and she became pregnant. Later she aborted the fetus. Thereafter, Vigneshwaran refused to marry the defacto complainant. Hence, the above complaint.

3.When the matter came up before this Court earlier, both the parties were asked to resolve the dispute between them amicably. The learned Senior Counsel for the petitioner today reported that the said Vigneshwaran is still interested to marry the defacto complainant and his family members are also agreeable for their marriage. Therefore, he seeks to grant bail to the petitioners.

4.The learned Senior Counsel further submitted that the father of the Vigneshwaran is hospitalized in the Stanley Hospital and taking treatment for sugar and foot finger amputated. He needs special care and treatment and detaining him will further deteriorate his health condition. Therefore, on health ground also, he may be granted bail.

5.The learned Government Advocate (Crl. Side) submitted that the said Vigneshwaran on the false promise that he will marry the defacto complainant had sexual



intercourse with her and now refused to marry her. After completion of investigation, based on the statement of witnesses and material evidence, charge sheet filed against the accused persons before the Principal District Sessions Judge, Chennai and the same is yet to be taken on file. The bail petitions filed by both the accused persons before the Lower Court were dismissed on 04.01.2024. Hence, they filed the present appeal. He further submitted that if the said Vigneshwaran is ready to marry the defacto complainant as per the earlier proposal, the Police have no objection to grant bail and they shall proceed accordingly.

6.Today, the defacto complainant Sarala, one Mr.Murali, who is the maternal uncle of the defacto complainant present before this Court and submitted that even now the defacto complainant is willing to marry Vigneshwaran. Their only condition is the marriage to be conducted as per the proposal and not to punish the petitioners. Ms. Nagajothi, the sister of Vigneshwaran is also present before this Court and she affirms the same.

7.In view of the above submissions, this Court is inclined to grant interim bail to the petitioners till 06.03.2024 on the following condition:

The petitioners/accused are ordered to be enlarged on bail, on condition that each of them



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shall execute a personal bond for a sum of Rs.10,000/- (Rupees ten thousand only) to the satisfaction of the Superintendent of Central Prison, Puzhal, Chennai.

8.At this juncture, the learned Senior Counsel appearing for the petitioners submitted that since some unwanted things happened between the parties, it would be appropriate to refer the matter to a Mediator to resolve the dispute between the parties amicably. The learned counsel for the third respondent also agreed for the same. In view of the above, this Court appoints, Mrs.Sudharshana Sundar [Mobile No.9444232590] to act as a Mediator to resolve the issue between them. Hence, the Registry is directed to place the matter before the Tamil Nadu Mediation and Conciliation Centre, High Court, Madras. The learned Mediator to complete the mediation process as expeditiously as possible.

9.Post the matter before this Court on 05.03.2024 along with the report of the mediation process.

Proceedings on 05.03.2024:

Both the petitioner and the defacto complainant are present before this Court and admitted that they got married and living happily. It is also submitted that their marriage



could not be registered since the Registrar had raised some queries. Therefore, they seek some time to get the marriage registered.

2.It is also represented that the father of the petitioner is not well and he is admitted in a Hospital at Sivakasi and the petitioner's sister is taking care of his father.

3.The respondent Police is directed to take necessary steps for registration of the marriage and report before this Court on the next hearing.

4.Post the matter on 18.03.2024 at 2.30 p.m. at the Chambers.

4.Today [18.03.2024], when the matter is taken up for hearing in the Chambers both A1 and the defacto complainant appeared, filed an affidavit confirming that now the relationship between them become cordial and produced the marriage invitation card, marriage photograph and the marriage registration certificate with supporting affidavit.

5.The learned Additional Public Prosecutor confirms the marriage solemnized between the third respondent and A1.



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6.The third respondent/defacto complainant submitted that she is no more interested in pursuing the above complaint, pendency of the above case would only disturb her marriage life and she requests to give quietus to the case in Crime No.9 of 2023 against her husband and in-laws. The second respondent police who is present before this Court also confirms the subsequent development and on taking note of the defacto complainant's request, submitted that after enquiry and verification, steps would be taken to file appropriate report before the concerned Court.

7.The Hon'ble Apex Court in ***K.Dhandapani vs. State by the Inspector of Police*** reported in ***2022 SCC Online SC 1056*** and ***Elumalai vs. Inspector of Police, All Women Police Station, Vellore District, Tamil Nadu [Crl.A.No.674 of 2018 dated 03.05.2018]*** had considered the subsequent events and observed that the Courts cannot shut its eyes to the ground reality and disturb the happy family life of the appellant as well as the victim girl even in POCSO cases.

8.In view of the subsequent developments, interim bail already



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granted by this Court in made absolute. The second respondent police to ensure that the marriage life between the third respondent and A1 is not disturbed and to file appropriate report before the concerned Court.

9. Accordingly, the criminal appeals stand allowed.

18.03.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No

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To

1. The Assistant Commissioner of Police,
Adayar Circle, Adayar,
Chennai.
2. The Inspector of Police,
W20, All Women Police Station,
Saidapet, Chennai – 15.
3. The Principal Sessions Judge cum
Special Judge for the cases under
SC/ST[POA] Act, 1989,
Chennai.
4. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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