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CrI.A.No.120 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.A.No.120 of 2024

Dinesh
S/o.Ravi

... Appellant/Accused

Vs.

1.The Deputy Superintendent of Police,
Krishnagiri,
Krishnagiri District.

2.The Inspector of Police,
All Women Police Station (AWPS),
Krishnagiri,
Krishnagiri District.
(Crime No.35 of 2023)

3.Vishalini

... Respondents

Prayer: Criminal Appeal filed under Section 14A of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 2015, to set aside the order passed by the learned Principal Sessions Judge, Krishnagiri in CrI.M.P.No.259 of 2024 dated 19.01.2024 and enlarge the appellant on bail concerned in Crime No.35 of 2023 on the file of Inspector of Police, All Women Police Station (AWPS), Krishnagiri, Krishnagiri District.



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For Appellant : Mr.M.R.Jothimanian
For Respondents-1 & 2 : Mr.C.E.Pratap
Government Advocate (Crl. Side)
For Respondent-3 : Mr.A.Velmurugan

JUDGMENT

This Criminal Appeal has been filed to set aside the impugned order in Crl.M.P.No.259 of 2024 dated 19.01.2024 passed by the learned Principal Sessions Judge, Krishnagiri and enlarge the appellant on bail in connection with Crime No.35 of 2023 on the file of the second respondent Police.

2.The appellant, who is an accused in Crime No.35 of 2023 for offences under Sections 294(b), 417, 506(i) of IPC and Section 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, had filed a direction petition before this Court in Crl.O.P.No.24763 of 2023 to consider his bail application on the same day. Pursuant to the directions of this Court, the petitioner had appeared before the Principal Sessions Judge, Krishnagiri on 19.01.2024



and surrendered and filed a bail application in C.M.P.No.259 of 2024, which got dismissed and remanded to judicial custody vide impugned order, dated 19.01.2024. Aggrieved over the same, the present Criminal Appeal is filed.

3.The case of the prosecution is that the third respondent/de-facto complainant had lodged a complaint to the second respondent on 22.09.2023 stating that she studied 12th standard in Saraswathy Vidyalaya School, Krishnagiri. At that time she came to know the petitioner and thereafter they developed friendship, blossomed to love affair. The petitioner was studying in an Engineering college at Salem. The third respondent joined the same college in the year 2021 and their relationship further got strengthened. On 24.11.2021 it was the petitioner's birthday and he called the de-facto complainant for treat. Further, on that day he made a promise that he will marry her and thereafter had sexual relationship with her. Before the de-facto complainant the petitioner completed his studies and left to Chennai. Thereafter, when the de-facto complainant attempted to call him he was unable to be contacted and started avoiding the de-facto



complainant. Feeling cheated and her life spoiled, the de-facto complainant was unable to concentrate in studies and discontinued her studies. The de-facto complainant belongs to SC community and the petitioner belongs to MBC community. Due to disparity in their social status the petitioner started avoiding her. On 13.09.2023 at about 5.00 p.m. the de-facto complainant had gone to the petitioner's house at Krishnagiri, where she was chased out by the petitioner stating that she belongs to SC community and the petitioner cannot marry a girl from the SC community. The petitioner knowing about the social status of the de-facto complainant had cultivated friendship, developed love affair from the school days which continued to college days and thereafter on the promise of marriage had physical relationship, finally cheated and ignored her. Hence, she lodged a complaint.

4.The contention of the learned counsel for petitioner is that the petitioner and the de-facto complainant were known to each other from school days and later it was the de-facto complainant, who joined the college where the petitioner already studying. There she forced and



continued the relationship with the petitioner. The de-facto complainant being a major and educated knowing about the consequences had continued the relationship with the petitioner. Thereafter, alleging the petitioner avoiding her, made false allegation as though the community is the reason, for which a case has been registered against the petitioner. He further submitted that the petitioner is an engineering graduate and due to the adolescent age not knowing the seriousness and consequences, had been friendly with the de-facto complainant, which has been projected against him as though it is the petitioner, who exploited the de-facto complainant. The petitioner is an engineering graduate and because of the above case his future is at crossroads and now he is in prison from 19.01.2024. He further submitted that investigation in this case is almost completed. Further detention of the petitioner is not required.

5.The learned Government Advocate (Crl. Side) filed his counter, which reads as follows:

“3. It is submitted that based on the above complaint, a case was registered in All Women Police Station, Krishnagiri, Crime No.35 of 2023, U/s.294(b), 417, 506(i) IPC, r/w 3(1) (r),



3 (1) (s), 3 (2) (va) of SC/ST [POA] Act 2015 on 22.09.2023 at about 21.00 hours against the accused by Tmt.Sumithra, the Inspector of Police, AWPS, Krishnagiri and submitted before me and I took up the case for further investigation as per the proceedings of the Superintendent of Police, Krishnagiri in C.No.C3/171/1438/2023 dated 22.09.2023.

4. It is submitted that during the course of investigation, I had went to the scene of occurrence and draw rough sketch and prepared observation mahazar in the presence of witnesses and also examined the defacto complainant and other witnesses and recorded their statements.

- I. Selvi Visalini - Complainant
- II. Tmt.Gowri- Mother of complainant
- III. Tr.Chandran - Father of complainant
- IV. Tr.Subramani-Relation of complainant
- V. Tr.Deepak Charan- Relation of Complainant
- VI. Tr. Gopi- Hearsay Evidence
- VII. Tr. Nagendra Kumar- OM Witness
- VIII. Tmt.Shakunthala- Hearsay Evidence
- IX. Tr. Vijay Kumar- Tahsildhar, Krishnagiri
- X. Tr.Selvaraj- Zonal deputy Tahsildhar, Krishnagiri
- XI. Tr.Sivamanju- Medical Doctor
- XII. Tr.Rajkumar-Medical Doctor



XIII. Tr.vijayan- Police Witness

XIV. Tmt Devi- Police Witness

XV. Senthil- Police Witness

XVI. Tmt.Sumithra-Then, Inspector of Police, AWPS

5. It is submitted that during the course of investigation, on 19.01.2024, the accused / Dinesh had surrendered before the Learned Principal District Judge, Krishnagiri and recorded his confession statement and remanded him into Judicial custody.

6. It is submitted that during the course of investigation, I have obtained the community certificate of complainant from Tr.Vijayakumar, Thasildhar, Krishnagiri and the same was verified.

7. It is submitted that during the course of investigation, I have obtained the community certificate of accused from Tr. Selvaraj, Zonal Officer cum Deputy Thasildhar, Krishnagiri and the same was verified.

8. It is submitted that during the course of investigation, I have produced the complainant for medical examination and obtained the report from Dr.Siva Manju, Government Medical College Hospital, Krishnagiri.

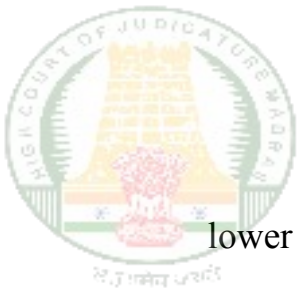


9. It is submitted that during the course of investigation, on 05.02.2024, 1 have produced the accused for medical examination and the report had been obtained from Dr. Rajkumar, Assistant Professor, Department of Forensic Medicine, Government Medical College Hospital, Krishnagiri.

10. It is submitted that based on the witnesses statement and evidence, I have altered the offences under section from U/s.294(b), 417, 506(1) IPC, r/w.3(1) (r), 3 (1) (s), 3 (2) (va) of SC/ST [POA] Act 2015 to u/s.294(b), 417, 506(i), 376 (ii) (n) IPC, sec.3 (1) (r), 3 (1) (s), 3 (2) (va), 3 (1) (w) (i), 3 (12/2 of SC/ST [POA] Act 2015 on 19/01/2024.

6.He further submitted that on 22.02.2024, the charge sheet has been taken on file in Spl.S.C.No.18 of 2024 and the case is posted to 10.04.2024 for furnishing of copies.

7.The learned counsel for third respondent/de-facto complainant submitted that in this case the petitioner had lured the de-facto complainant on a false promise that he would marry her and had sexually exploited her not once but on several occasions. The de-facto complainant hailing from



lower strata of the society, with great difficulty her parents provided education in a decent school and thereafter she joined college in Salem.

From school days and college days the petitioner continued his relationship with her, exploiting innocence of the de-facto complainant he took her on the date of his birthday to give some sentimental promise that he would marry her and committed penetrative sexual assault. He further submitted that on the false promise made by the petitioner the de-facto complainant had given herself to the petitioner and the petitioner was very much aware about the social status of the de-facto complainant right from her school days. Now the petitioner making a turn around stating that de-facto complainant belongs to SC community and hence he will not marry her. It is clear case of exploiting and spoiling the de-facto complainant not only bodily and also her future career. He further submitted that during the relationship period he had recorded several conversation and video recordings of their intimate movements, which the petitioner is yet to hand over to the respondent police and the respondent police are also not taking any steps to seize these articles despite the de-facto complainant informed about the same.



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8.The learned counsel for the petitioner submitted that petitioners phone seized and verified by the respondent police, no such video recordings found. In any event, he is ready to file an affidavit confirming there is no conversation or recordings of the de-facto complainant with the petitioner, and shall give an undertaking that if any such recordings found later, the same would not be published or used in any manner affecting the de-facto complainant.

9.The learned counsel for the de-facto complainant submitted that the Special Court received the charge sheet on 19.01.2024 and taken cognizance of the case in Spl.S.C.No.18 of 2024 on 22.02.2024 and posted the case for the next hearing on 10.04.2024 is against proviso to Section 14 of SC/ST Act, the directive is that trial relating to the offence under the SC/ST Act as far as possible to be completed within a period of two months from the date of filing of the charge sheet. In this case, charge sheet has been filed on 19.01.2024 and the next hearing date is beyond the period, contemplated in the Act, which is not proper, the trial Court to be given appropriate direction.



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10.Considering the submissions made and on perusal of the materials available on record, it is seen that the trial Court, namely, Principal Sessions Judge, Krishnagiri/Special Judge adjourning the case for such long period is not proper. The trial Court is directed to suo-motu advance the hearing date to 01.03.2024, on which date the remand of the petitioner to be extended. On that day, ensure the presence of the petitioner, serve copies to the petitioner and thereafter post the case for questioning without delay and take all steps to complete the trial following Section 14 of the SC/ST Act, no adjournment shall be for more than two days.

11.The learned counsel for petitioner submitted that, if the petitioner is granted bail, after executing sureties, he would appear before the trial Court on 01.03.2024 without fail, receive copies and will co-operate with the trial and he will not be a reason for any delay in the matter and he will also file an affidavit as regards the apprehension of mobile phone recordings on 01.03.2024. In view of the same, this Court is inclined to grant bail to the appellant subject to the following conditions:



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(i)The appellant shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only), with two sureties each for a like sum to the satisfaction of the learned Principal Sessions Judge, Krishnagiri.

(ii)the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Judge may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(iii)the appellant shall appear before the trial Court on 01.03.2024 at 10.30 a.m. and thereafter on every hearing dates without fail.

(iv)The appellant is directed to file an affidavit on 01.03.2024 giving the above undertaking.

(v)The appellant shall not give any inconvenience or trouble knowingly or unknowingly to the third respondent, failing which, the bail shall be cancelled without any further reference.

(vi)the appellant shall not commit any offences of similar nature;



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(vii)the appellant shall not abscond either during

investigation or trial;

(viii)the appellant shall not tamper with evidence or witness

either during investigation or trial;

(ix)on breach of any of the aforesaid conditions, the learned Judge/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 Judge/Trial Court himself as laid down by the Hon'ble Supreme Court in ***P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]***;

(x)if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

12.In view of the above, the impugned order in Crl.M.P.No.259 of 2024, dated 19.01.2024 passed by the learned Principal Sessions Judge, Krishnagiri is set aside and the Criminal Appeal is, accordingly, allowed.



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13.Post the case on 05.03.2024 under the caption 'For reporting compliance'.

23.02.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
Internet: Yes/No
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Note: Issue Order Copy on 26.02.2024.

To

- 1.The Deputy Superintendent of Police,
Krishnagiri,
Krishnagiri District.
- 2.The Inspector of Police,
All Women Police Station (AWPS),
Krishnagiri,
Krishnagiri District.
- 3.The Principal Sessions Judge,
Krishnagiri.
- 4.The Superintendent,
Sub Jail, Dharmapuri.
- 5.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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