



Crl.A.No.201 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.201 of 2024

Rayappan

... Appellant

Vs.

State by

1.The Superintendent of Police,
Tiruvannamalai District,
Tiruvannamalai.

2.The Inspector of Police,
Thachampattu Police Station,
Thachampattu,
Tiruvannamalai Taluk & District.
[Crime No.346 of 2023]

3.Palani [Deceased]

4.Chandra
[R4 impleaded as per order dated 07.03.2021
in Crl.M.P.No.4260 of 2024]

... Respondents

Prayer: Criminal Appeal filed under Section 14A(II) of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 2015 to set aside the order passed by the learned Principal Sessions Judge,



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Tiruvannamalai in Crl.M.P.No.223 of 2024 and the same was dismissed on 08.02.2024 and enlarge the appellant on bail in Crime No.346 of 2023 pending on the file of the Inspector of Police, Thachampattu Police Station, Tiruvannamalai Taluk and District.

For Appellant : Mr.C.Prakasam
For R1 & R2 : Mr.S.Raja Kumar
Additional Public Prosecutor
For R4 : Mr.S.Akilan
Legal Aid Counsel

JUDGMENT

This Criminal Appeal has been filed to set aside the impugned order in Crl.M.P.No.223 of 2024, dated 08.02.2024 passed by the learned Principal Sessions Judge, Tiruvannamalai and enlarge the appellant on bail in connection with Crime No.346 of 2023 on the file of the second respondent Police Station.

2.The contention of the learned counsel for the appellant/A3 in Crime No.346 of 2023 was arrested by the second respondent police on 04.01.2024. The role attributed against the appellant is that the appellant



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who is the Village Head was in forefront in execution of Power of Attorney in favour of A1 who executed a sale deed in favour of A2. In this case, A1, A2 and the deceased are close relatives. The deceased borrowed a loan from A2, at that time, as security on the assurance of the appellant, a power of attorney has been executed in favour of A1 which later has been misused by A1 and A2, for which, the appellant cannot be a reason. He would submit that in fact the appellant advised A1 on several occasions to cancel the Power of Attorney and asked the deceased to approach A1 and A2, who are close relatives to him to cancel the Power of Attorney and the sale deed executed thereof. But the appellant is not aware as to for what reason A1 and A2 had not cancelled the document. Since the appellant is an elderly person in the Village, he was approached to resolve the issue and he took all earnest steps. The deceased Palani has self immolated and later he died, hence the case has been altered including the offence under Section SC/ST Act, the petitioner was arrested and he is in prison from 04.01.2024. He further submitted that substantial portion of investigation has been completed. He would further submit that the appellant is aged about 71 years with health ailments and even from the prison, he is visiting Government Hospital for treatment. Hence, prayed for grant of bail.



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3.The learned Additional Public Prosecutor filed his counter and submitted that on 31.12.2023, the then Sub-Inspector of Police received intimation from the Government Medical College and Hospital, Thiruvannamalai, she rushed to the hospital and obtained statement of the deceased Palani, who was undergoing treatment. It is submitted that in the year 2017, the deceased Palani obtained loan of Rs.2,00,000/- from one Ravi/A2 and executed a power of attorney in favour of Chennammal/A1, who is the wife of A2, in the presence of Rayappan/A3. The deceased paid interest amount of Rs.1,45,000/- to A2 but A1 executed a sale deed in favour of A2 and her son Pasupathy. Due to which, the deceased went to appellant's house and set fire on himself by pouring kerosene. Based on the complaint, a case in Crime No.346 of 2023 was registered for the offence under Sections 418, 306 r/w. 511 IPC against A1 to A3. The Inspector of Police took up the investigation, went to the scene of occurrence, prepare observation mahazar and rough sketch in the presence of witnesses, examined the witnesses and recorded their statements. On the same day, dying declaration of the deceased Palani was recorded by the learned Judicial Magistrate No.I, Thiruvannamali. During the course of



investigation, the said Palani died in the hospital on 04.01.2024.

Thereafter, the Inspector of Police altered the sections for the offence under Sections 416, 306 IPC and Section 3(2)(v) of SC/ST (POA) Act against the accused persons, conducted inquest and sent the body for postmortem. Further, A3 and A4 were arrested on 04.01.2024 and 09.02.2024 respectively, confession statement recorded and remanded to judicial custody. He further submitted that A1 and A2 are still absconding. Hence, he prayed for dismissal of the appeal.

4.Since the third respondent/Palani passed away, this Court ordered notice to be served to his wife Chandra. Pursuant to which, notice was served to her, but there was no representation. Thereafter, this Court appointed Mr.Akilan, learned counsel as legal aid counsel, who on the available records submitted that the appellant is a Village Head and on his assurance, a power of attorney was executed by Palani in favour of A1, but misusing the said power of attorney, A1 and A2 created a sale deed thereafter on the property of the deceased. The deceased Palan also paid back the substantial portion of the loan amount with interest and he was ready to settle the entire loan amount. A1 and A2 had not taken any steps to



cancel the power of attorney and the sale deed. The deceased Palani was having 3.42 acres and for pittance, sale deed has been registered. He would submit that if the appellant had taken earnest steps in resolving the issue, who is the Village Head, the life as well as the property of the deceased could have been saved. The deceased due to inaction of the appellant committed suicide by self immolation in front of the appellant's house to prove that the appellant is the main person in the entire transactions. Hence, he strongly opposed the appeal.

5.Considering the submissions made and on perusal of the materials, it is seen that a power of attorney has been executed in faovur of A1, who in turn executed a sale deed in faovur of A2. A1 and A2 are the close relatives of the deceased. The appellant had only acted as a middlemen. In view of the above, this Court is inclined to grant bail to the appellants subject to the following conditions.

(i)The appellants 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 Judicial Magistrate No.I, Tiruvannamalai.

(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 respondent Police every Monday at 10.30 a.m., until filing of charge sheet and thereafter, the appellant shall appear before the Trial Court on all hearing dates.

(iv)The appellant shall not give any inconvenience or trouble knowingly or unknowingly to the 4th respondent, failing which, the bail shall be cancelled without any further reference.

(v)The appellant shall not commit any offences of similar nature;

(vi)The appellant shall not abscond either during investigation or trial;

(vii)The appellant shall not tamper with evidence or witness either during investigation or trial;

(viii)On breach of any of the aforesaid conditions, the learned Judicial Magistrate/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]***;



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

6.In view of the above, the impugned order in Crl.M.P.No.223 of 2024, dated 08.02.2024 passed by the learned Principal Sessions Judge, Tiruvannamalai is set aside and the Criminal Appeal is, accordingly, allowed.

7.This Court appreciates Mr.S.Akilan appointed as legal aid counsel for the 4th respondent in rendering his sincere efforts in this regard.

13.03.2024

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

cse

Note: Issue order copy on 14.03.2024



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To

- 1.The Superintendent of Police,
Tiruvannamalai District,
Tiruvannamalai.
- 2.The Inspector of Police,
Thachampattu Police Station,
Thachampattu,
Tiruvannamalai Taluk & District.
- 3.The Principal Sessions Court,
Tiruvannamalai.
- 4.The Judicial Magistrate No.I,
Tiruvannamalai
- 5.The Superintendent,
Central Prison,
Vellore.
- 6.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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