



CrI.A.No.302 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.A.No.302 of 2024

Devanathan
S/o.Perumal

... Appellant/Accused

Vs.

1.The State of Tamil Nadu,
Rep. by its
The Deputy Superintendent of Police,
Vikkiravandi Range.

2.The Inspector of Police,
All Women Police Station,
Villupuram,
Villupuram District.

3.Ashwini

... Respondents

Prayer: Criminal Appeal filed under Section 14A(2) of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989, praying to set aside the impugned order dated 23.02.2024 passed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Villupuram in CrI.M.P.No.449 of 2024 by allowing this appeal.



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For Appellant : Mr.E.C.Ramesh
For Respondents-1 & 2 : Mr.S.Raja Kumar
Additional Public Prosecutor
For Respondent-3 : Mr.A.Baskar
Legal Aid Counsel

JUDGMENT

This Criminal Appeal has been filed to set aside the impugned order in Crl.M.P.No.449 of 2024 dated 23.02.2024 passed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under SC & ST (POA) Act, Villupuram and enlarge the appellant on bail in connection with Crime No.101 of 2023 on the file of the second respondent Police.

2.The appellant, who arrayed as accused in Crime No.101 of 2023 for offences under Sections 498(A), 294(b), 323, 354(C) and 506(i) of IPC r/w Section 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, was arrested by the respondent police on 31.01.2024. The appellant filed a bail application before the learned Sessions Judge, Special Court for Exclusive Trial of Cases under



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SC & ST (POA) Act, Villupuram in Crl.M.P.No.449 of 2024 and the same was dismissed vide impugned order, dated 23.02.2024. Aggrieved over the same, the present Criminal Appeal is filed.

3.The contention of the learned counsel for appellant is that the de-facto complainant married one Balaji and they have a child namely Vishvanth, aged about 4 years. Due to difference of opinion between them, they filed a divorce petition and the same was granted in H.M.O.P.No.49 of 2019. Thereafter the appellant married the de-facto complainant and they are living as husband and wife. Out of their marriage, on 09.09.2022, a girl child, namely, Swathi was born to them. Presently, the de-facto complainant is pregnant. This being so, due to some matrimonial discord, a false case has been projected against the appellant. The appellant, knowing well about the social status of the de-facto complainant, married her. They are living as husband and wife. There is no reason for the appellant to use abusive words or calling her caste name. It is a love marriage between the appellant and the de-facto complainant and there is no question of demand of dowry. In between the husband and wife there might be some misunderstanding,



which was magnified and false case registered against the appellant. Even today, the appellant is willing to join the de-facto complainant and continue to live as husband and wife.

4.The learned Additional Public Prosecutor submitted that in this case though two accused have been arrayed, the father of the appellant/A2 was dropped from the case. Now investigation completed, charge sheet made ready, sent for approval and the same was approved by the Additional Public Prosecutor on 25.03.2024 and charge sheet soon to be filed for offence under Sections 498(A) and 506(ii) of IPC r/w Section 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Hence, strongly opposed for granting bail.

5.The learned Legal Aid Counsel appearing for the third respondent/de-facto complainant submitted that he contacted the de-facto complainant, she informed that her only grievance is, the appellant should continue to live with the de-facto complainant and her paramount



consideration is to continue her matrimonial life. Now, she is also pregnant for the second time at advance stage of pregnancy. The presence of the appellant would be of great help both physically and mentally. Further submitted that if the appellant joins with her and continues matrimonial life, she will not be interested to further pursue the complaint.

6.Considering the submissions made and on perusal of the materials, it is seen that it is a matrimonial dispute. The appellant, knowing well about the social status of the de-facto complainant, married her and they are living as husband and wife. Further, it is a love marriage and now, she is also pregnant for the second time, now at advance stage of pregnancy. Further, the de-facto complainant is not interested to further pursue the complaint, if the appellant joins with her and takes care of the children. Now investigation completed and charge sheet soon to be filed. Further, the appellant is in confinement from 31.01.2024. In view of the same, this Court is inclined to grant bail to the appellant subject to the following conditions:

- (i)The appellant shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only), with two sureties each



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for a like sum to the satisfaction of the learned Sessions Judge,
Special Court for Exclusive Trial of Cases under SC & ST (POA)
Act, Villupuram;

(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 not give any inconvenience or
trouble knowingly or unknowingly to the 3rd respondent, failing
which, the bail shall be cancelled without any further reference.

(iv)the appellant shall not abscond either during
investigation or trial;

(v)the appellant shall not tamper with evidence or witness
either during investigation or trial;

(vi)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



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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];

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

7.In view of the above, the impugned order in Crl.M.P.No.449 of 2024, dated 23.02.2024 passed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under SC & ST (POA) Act, Villupuram is set aside and the Criminal Appeal is, accordingly, allowed.

27.03.2024

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

Note: Issue Order Copy on 28.03.2024.



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To

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- 1.The Deputy Superintendent of Police,
Vikkiravandi Range.
- 2.The Inspector of Police,
All Women Police Station,
Villupuram,
Villupuram District.
- 3.The Sessions Judge,
Special Court for Exclusive Trial of Cases under SC & ST (POA) Act,
Villupuram.
- 4.The Superintendent of Police,
District Jail Villupuram,
Vedampattu, Villupuram District.
- 5.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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