



Crl.A.No.1198 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.1198 of 2024

Suresh @ Karuppu Suresh

... Appellant

Vs.

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

2.The Inspector of Police,
SIPCOT Police Station,
Krishnagiri District.

3.Elavarasan

... Respondents

Prayer: Criminal Appeal filed under Section 14A of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities), to set aside the order dated 09.09.2024 made in Crl.M.P.No.3401 of 2024 on the file of the Principal Sessions Judge, Krishnagiri and enlarge the appellant on bail pending investigation in Crime No.262 of 2024 on the file of the respondent police.



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For Appellant : Mr.J.Pradeep
For R1 & R2 : Mr.R.Vinoth Raja
Government Advocate (Crl. Side)
For R3 : Present-in-Person

JUDGMENT

This Criminal Appeal has been filed to set aside the impugned order in Crl.M.P.No.3401 of 2024 dated 09.09.2024 passed by the learned Principal Sessions Judge, Krishnagiri and enlarge the appellants on bail in connection with Crime No.262 of 2024 on the file of the first respondent.

2.The appellant/A1 in Crime No.262 of 2024 was arrested by the respondent police on 26.08.2024 for the offence under Sections 296(b), 115(2), 118(1) and 353(3) of the Bharatiya Nyaya Sanhita [BNS] Act, 2023.

3.The case against the appellant is that on 15.08.2024 at about 10.00 p.m., when the defacto complainant along with others were conducting Vinayagar Chathurthi chit, at that time, the appellant along with



Christopher, Sridhar and Tamilselvan had come there and enquired about one Sunil. The defacto complainant informed that he does not know about him. The appellant again enquired the defacto complainant about Sunil by questioning him that the said Sunil is the friend of the defacto complainant and why he is not giving any particulars about him, thereafter abused and assaulted him using hands. The other persons picked up nearby stones and assaulted the defacto complainant, due to which, he sustained blood injuries. They also assaulted the defacto complainant's friends Mani and Raman. The injured took treatment in the Government Hospital, Hosur and thereafter, complaint lodged. On the same day in the morning hours, Punithkumar, was playing cricket, at that time, there was some dispute. On Christopher was assaulted by Punithkumar's friend Sunil and thereafter, they were separated. For this fight, the appellant is said to have assaulted the defacto complainant, at that time, Punithkumar who was present there was abused by calling his caste name and threatened. This was informed to the respondent police by Punithkumar's mother and after enquiry, section was altered for the offence under Sections 191, 191, 296(b), 115(2), 118(1), 351(3) of BNS Act and Section 3(1)(r), 3(1)(a), 3(2)(va), 3(1)(w)(i) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 2015.



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4.The contention of the learned counsel for the appellant is that a fight which arose during playing was given a communal angle and criminal colour and further it has been projected as though the appellant along with others enquired defacto complainant Ilavarasan about one Sunil and thereafter attacked Ilavarasan, Mani and Raman. At that time, one Christopher was present along with the appellant who used stones in hitting the victims. The said Christopher earlier picked up a fight with Sunil, at that time, Punithkumar was present, who separated the fight. On the complaint of one Padmanaban, a case in Crime No.264 of 2024 for the offence under Sections 296(b), 115(2), 118(1) and 353(3) of BNS Act, in which, the said Punithkumar is an accused along with Sivakumar, Anand and Sasikumar. On the arrest of the said Punithkumar, statement was recorded from Punithkumar and the appellant falsely implicated. He would submit that in this case, A2 to A4 arrested, produced for remand and thereafter, they were released on bail. The appellant was confined in prison from 26.08.2024.

5.Today [14.10.2024], when the matter is taken up for hearing in the forenoon session, the defacto complainant, the victims, namely,



Punithkumar and Mani appeared before this Court and submit that they would give instructions the learned Government Advocate (Crl. Side) and they could be heard through him, hence the case was passed over. After instructions, the case was taken up in the afternoon session.

6.The primary objections of the defacto complainant and the victims is that the appellant who is confined in Prison is sending words through his relatives who called the defacto complainant, the victims and threatening them, hence they apprehend danger and threat from the appellant.

7.The learned Government Advocate (Crl. Side) filed his counter and submitted that on 16.08.2024, the Sub-Inspector of Police received an intimation from the Government Hospital, Hosur, thereafter he went to the hospital, recorded the statement of defacto complainant about he being assaulted on 15.08.2024. The appellant along with his friends enquired about Sunil to the victims and thereafter abused and assaulted them. They also abused Punithkumar, who had come there by calling his caste name and threatened him. He further submitted that in this case, the appellant was arrested on 26.08.2024. Earlier to it, A2 to A4 were arrested on



17.08.2024, at that time, alteration report including SC/ST Act was not filed and hence, they were granted bail. The alteration report was filed on 27.08.2024. He further submitted that the appellant is a regular offender having five cases to his credit and he in the habit of picking up fight and assaulting his opponents. Hence, opposed the appeal.

8.Considering the submissions made and on perusal of the materials, it is seen that the co-accused in this case A2 to A4 were arrested on 17.08.2024 and granted bail by the learned Judicial Magistrate, Hosur. As regards the appellant, he was arrested on 26.08.2024. Earlier to it, the mother of Punithkumar, namely, Manjula informed about the earlier incident and also the presence of Punithkumar at the time of occurrence and being abused by calling his caste name. Thereafter, the case was altered including the offence under SC/ST Act on 22.08.2024. The entire dispute between the appellant and the defacto complainant arose out of a fight during Cricket game and thereafter, there was exchange of blows between two groups. The presence of Punithkumar was not earlier mentioned and it was a later addition. In view of the fact that the appellant is in prison from 26.08.2024 and the investigation also substantially completed, this Court is inclined to



grant bail to the appellants 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 for a like sum to the satisfaction of the learned Principal Sessions Judge, Krishnagiri District.

(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 everyday at 10.30 a.m. for a period of fifteen days and thereafter as and when required for interrogation.

(iv)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.

(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;



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(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]*;

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

9. In view of the above, the impugned order in Crl.M.P.No.3401 of 2024, dated 09.09.2024 passed by the learned Principal Sessions Judge, Krishnagiri District is set aside and the Criminal Appeal is, accordingly, allowed.

14.10.2024

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



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To

WEB COPY

- 1.The Deputy Superintendent of Police,
Hosur,
Krishnagiri District.
- 2.The Inspector of Police,
SIPCOT Police Station,
Krishnagiri District.
- 3.The Principal Sessions Judge,
Krishnagiri District.
- 4.The Superintendent,
Sub Jail,
Hosur.
- 5.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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