



Crl.A.No.1193 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.1193 of 2024

Bensha C.Shaji

... Appellant

Vs.

1.The Assistant Commissioner of Police,
T19 Kelambakkam Police Station,
Kelambakkam,
Chennai – 600 103.

2.The Inspector of Police,
T19 Kelambakkam Police Station,
Kelambakkam,
Chennai – 600 103.

3.Saran

... Respondents

Prayer: Criminal Appeal filed under Section 14A(II) of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989 to set aside the order dated 12.09.2024 passed in Crl.M.P.No.2567 of 2024 on the file of the Principal District and Sessions Court, Chengalpattu and enlarge the appellant on bail.



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For Appellant : Mr.K.Sharath Chandran
For R1 & R2 : Mr.R.Vinothraja
Government Advocate (Crl. Side)
For R3 : Mr.Krishnasamy Chinnasamy

JUDGMENT

This Criminal Appeal has been filed to set aside the impugned order in Crl.M.P.No.2567 of 2024, dated 12.09.2024 passed by the learned Principal District and Sessions Judge, Chengalpattu and enlarge the appellant on bail in connection with Crime No.237 of 2024 on the file of the second respondent Police Station.

2.The appellant/accused in Crime No.237 of 2024 was arrested on 30.08.2024 by the respondent police for the offence under Sections 294(b), 506(i) of IPC and Sections 3(1)(r) and 3(1)(s) of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

3.The gist of the case is that the third respondent/defacto complainant is a student in Hindustan University studying Law (LLB Second Year). On



02.04.2024 the defacto complainant along with his classmates went for four days industrial visit to Cochin, Kerala State. On 05.04.2024 at about 11.35 p.m., two female students were standing in front of their room in the first floor, the appellant was in the ground floor and he called them to his room where he informed that he is going to consume alcohol and whether they are interested. The appellant further informed that if he had not married earlier, he would have married one of them who seems to be equal to his height and personality. Further, the appellant is also enticing the girls towards the Tour Organizer and they were also harassed, which was informed to the defacto complainant. On 10.04.2024 at about 10.00 a.m., three students including the defacto complainant lodged a complaint to the College Management and when they came out, they saw the appellant who questioned them stating that he was looking after them as brother and why they made such false allegations. Further, the appellant called the defacto complainant using his caste name and informed him to look after his studies alone, otherwise he would ensure that his life would be put to misery and he would be dismissed from the College. As stated so, on 12.04.2024 the defacto complainant was suspended and his parents were informed about his suspension. On 15.04.2024, the defacto complainant along with his parents



approached the College Authorities, they were informed that the dismissal order would be cancelled and suspension order alone would be closed in some time. Later it came to know that suspension order was revoked on 08.07.2024 only in respect of three female students after payment of fine and the defacto complainant along with his two male classmates were dismissed from the College. Hence complaint lodged. The defacto complainant's complaint is that since he belongs to Scheduled Caste community, he was called by his caste name, humiliated and he was also treated in an indiscriminatory manner.

4.The learned counsel for the appellant submitted that in this case, complaint came to be registered on 16.08.2024 i.e., four months after the alleged occurrence and no proper explanation given for the delay. In fact, on the complaint of the appellant, Internal Enquiry Committee formed with seven members, of which one of them was an external member, the others are Professor, Assistant Professor, Associate Professor, Student Affair Member and a Legal Officer. During enquiry, it was found that on 10.04.2024 three students including the defacto complainant hit the appellant, pushed down and caused hurt to him. The three female students who are said to have



been abused and harassed were enquired about the appellant's behaviour during the industrial visit. It was informed that no such incident of sexual harassment of any sort happened during the industrial visit and it was the three male students including the defacto complainant acted violently against the appellant. On conclusion of the internal enquiry, three male students including the defacto complainant was dismissed from the College. As regards the three female students, they were suspended and later on their undertaking and on payment of fine, they were reinstated in College, now they were attending classes. He would further submit that even in the counter filed before the Lower Court, the defacto complainant admits that the College Authorities informed him that action taken against him is only temporary and he can join the College after three months but to his dismay he was informed on 30.05.2024 that he was dismissed from the College, hence he lodged the present complaint which is a motivated one.

5.The learned counsel for the appellant produced the statement of the Assistant Professor, who was part of the industrial visit team to confirm that the trip went on smoothly and there was no issue reported by the students. He also produced the statement of Adjunct-Faculty confirming the assault



by the defacto complainant and two of his friends on the appellant, who sustained injuries on his shoulders and taken to Chettinaud Hospital where a Medico-Legal Case was filed. On finding that penal action to be taken against him in view of the incident on 10.04.2024, in offensive the defacto complainant lodged a complaint which was not acted upon immediately, thereafter the complaint was sent to SC/ST Commission which was forwarded to the respondent police and having left with no other option, case was registered against the appellant. He further submitted that on the appellant's arrest on 30.08.2024, he was granted interim bail for the reason that he has to submit papers to complete his Doctorate and after his examination was over, the appellant voluntarily surrendered before the Trial Court on 09.09.2024.

6.The learned counsel appearing for the third respondent submitted that the third respondent along with his classmates went to Kerala for industrial visit, the appellant who is a Malayali and close to the Management was asked to be part of the industrial visit team. Taking advantage of the closeness to the Management, the appellant was acting in a high handed manner. In fact, the appellant's called two female students who



were standing in the first floor to come to his room, he offered them liquor and passed lucid comments. The female students complained to the defacto complainant and other classmates. After reaching Chennai, they lodged a complaint to the College Management, who questioned the appellant and on getting offended of the same, the appellant gave a report as though the defacto complainant and others had not properly behaved during the industrial visit. An In-House Enquiry Committee formed which was only an eye wash with pre-determined agenda. In fact, they absolved the appellant from all the offences and the defacto complainant along with his two classmates were made as scapegoat and dismissed from the College. The three female students were warned and on payment of fine, they were reinstated in the College. The College Management is acting in support of the appellant and hence, the defacto complainant having left with no other option, lodged a complaint to the respondent police. Since no action was taken, the defacto complainant lodged a complaint before the SC/ST Commission which was forwarded to the respondent. The Assistant Commissioner, Kelambakkam took up investigation, recorded the statement of witnesses and arrested the appellant in this case. He further submitted that due to the guilt, the appellant resigned from the College and now joined



a College in Andhra Pradesh as Professor, on the other hand the third respondent/defacto complainant who was taking the cause of fellow students, targeted and dismissed from the College.

7.The learned Government Advocate (Crl. Side) filed his counter and submitted that there was an industrial visit arranged by the College Authorities. The appellant herein being part of the industrial trip took the students to Industrial visit to Cochin. It is informed that some of the female students complained to the defacto complainant and his friends about the appellant abusing them, passing lucid comments and also behaving in an inappropriate manner. After coming back to Chennai, the defacto complainant lodged a complaint to the College Authorities and enquiry was conducted. Since no action taken against the appellant, the defacto complainant lodged a complaint to the National SC/ST Commission which was forwarded to the respondent police through proper channel. Thereafter, FIR registered, now investigation completed and charge sheet filed by e-filing on 28.09.2024. He further submitted that three female students have given 164 Cr.P.C. Statement which forms part of the charge sheet.



8.Considering the submissions made and on perusal of the materials, it is seen that it is an outburst after an industrial visit to Kerala. The appellant being part of the industrial visit team took the students to Cochin where there was some misunderstanding and complaint was lodged by the defacto complainant along with his two classmates to the College Management. The College Authorities constituted an In-House Enquiry Committee, enquiry conducted and found the complaint to be far fetched. On the other hand, the appellant was assaulted by the defacto complainant, for which no action taken. Initially, three male students along with three female students were suspended from College. Thereafter, the three female students were warned and reinducted on payment of fine but the three male students dismissed from College. The complaint stems after the dismissal. The alleged occurrence took place during April 2024 but the complaint was given after four months i.e., during August 2024. In the complaint, for the delay explanation given is that the defacto complainant was waiting that he would be reinducted in the College but not done, hence complaint lodged. The appellant's contention that he was falsely implicated in this case gains credence. Further, in this case investigation completed, charge sheet filed and there is no further requirement for the appellant to be in confinement.



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 Principal District and Sessions Judge, Chengalpattu;

(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 all hearing dates.

(iv) 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.

(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



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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.2567 of 2024, dated 12.09.2024 passed by the learned Principal District and Sessions Judge, Chengalpattu is set aside and the Criminal Appeal is, accordingly, allowed.

01.10.2024

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

cse

Note: Issue order copy on 03.10.2024



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To

- 1.The Assistant Commissioner of Police,
T19 Kelambakkam Police Station,
Kelambakkam,
Chennai – 600 103.
- 2.The Inspector of Police,
T19 Kelambakkam Police Station,
Kelambakkam,
Chennai – 600 103.
- 3.The Principal District and Sessions Court,
Chengalpattu.
- 4.The Superintendent,
District Jail,
Chengalpattu.
- 5.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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