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Crl.A.Nos.1379 & 1380 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.A.Nos.1379 & 1380 of 2024

1. Vikram ... Appellant in Crl.A.No.1379 of 2024
/ Accused No.7
2. Madhanagopal ... Appellant in Crl.A.No.1380 of 2024
/ Accused No.2

Vs.

- 1.State Represented by;
The Deputy Superintendent of Police,
Office of the Deputy Superintendent,
Nagapattinam.
- 2.The Inspector of Police,
Kilvelur Police Station
Nagapattinam.
Crime No.386 of 2024 ...1st and 2nd Respondents / Complainant
3. Thangammal ...3rd Respondent /*De-facto* Complainant

COMMON PRAYER: Criminal Appeals filed under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes Act, 1989, to set aside the orders in Crl.M.P.No.2633 & 2577 of 2024 dated 05.11.2024 on the file of the learned District and Sessions Judge, at Nagapattinam District and enlarge the appellants on bail in Cr.No.386 of 2024 on the file of the respondents/complainant.

For Appellants : Mr.J.Jawahar



Crl.A.Nos.1379 & 1380 of 2024

in both cases

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For Respondents : Mr.Dr.C.E.Pratap (for R1 & R2)
in both cases Government Advocate (Crl. Side)

: Mr.T.Senthil Kumar (for R3)
Legal Aid Counsel

COMMON JUDGMENT

These appeals have been filed challenging the dismissal of the petitions for bail filed by Accused Nos.2 and 7 under Section 483 of the BNSS.

2. It is the case of the prosecution that the appellants/A2 and A7 had abused the *defacto complainant*/3rd respondent herein in a filthy language and insulted him by uttering his caste name and thereafter, attempted to commit murder with an aruval and wooden log and threatened to damage his house.

3. The appellants filed bail applications in Crl.M.P.Nos.2577 and 2633 of 2024 before the trial Court and the trial Court dismissed the said bail applications on 05.11.2024 on the ground that A1 is the main accused



and that the State/respondent has an objection for grant of bail and hence if the appellants are released on bail, there is a possibility of tampering the witnesses and hampering the investigation.

4. The learned counsel for the appellants/A2 & A7 would submit that a counter case was registered against the *defacto complainant*, which was registered in Cr.No.385 of 2024 on the complaint lodged by A2/appellant in Crl.A.No.1380 of 2024, for the offences under Sections 191(2), 191(3), 296(b), 329(4), 118(2), 351 (3), 109 of BNS and 3(1) of the TNPPDL Act; that since the *defacto complainant* has been discharged from the hospital and that the co-accused also have been released on bail by this Court in Crl.A.No.1205 of 2024 on 14.10.2024 prayed for grant of bail to the appellants herein.

5. The learned Government Advocate (Crl.Side) would submit that the case against the appellants has been registered on the complaint of the *defacto complainant*; that since the investigation is still pending, the appellants may not be released on bail; and on instructions, he would submit that there are no previous cases against the appellants herein.



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6. The learned counsel for the 3rd respondent/*defacto complainant* would submit that the accused are influential persons and are exhibiting their muscle power and their supremacy over the *defacto complainant* and the other members of his community and that therefore, no indulgence should be shown to the appellants.

7. Heard the submissions of the learned counsel on either side and perused the materials available on record.

8. While considering the appeal filed challenging the dismissal of the bail application of A1, A4, A5 and A8, this Court in its judgment dated 14.10.2024 in Crl.A.No.1205 of 2024 had observed as follows and granted bail:

“7.Considering the submissions made and on perusal of the materials, it is seen that the appellants were arrested on 26.08.2024 and 28.08.2024. A2 in this case was attacked and also three others, all sustained injuries serious in nature. The defacto complainant and others who are accused in Crime No.385 of 2024 were arrested and granted bail by this Court. As regards these appellants, it is nothing but an off shoot of the earlier complaint. There has been complaint and counter complaint against both groups. Both have



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attacked each other. The damage and injury is more on the appellants' side. Now substantial portion of investigation completed.”

9. The above observations would squarely apply to the appellants as well. Hence, this Court is inclined go grant bail to the appellants/A2 & A7 on the following conditions.

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

(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 appellants shall appear before the Kilvelur Police Station everyday at 10.30 a.m. for a period of four weeks and thereafter as and when required by the respondent police.

(iv)The appellants 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 appellants shall not commit any offences of similar nature;

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



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(vii)The appellants 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];

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

10.In view of the above, the impugned orders in Crl.M.P.No.2577 and 2633 of 2024, dated 05.11.2024 passed by the learned District and Sessions Judge, Nagapattinam, are set aside and the Criminal Appeals are, accordingly, allowed.

25.11.2024

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

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Note: Issue Order Copy by 26.11.2024.



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SUNDER MOHAN, J.

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Copy to:

1.The Deputy Superintendent of Police,
Kilvelur Police Station, Nagapattinam District.

2.The Inspector of Police,
Kilvelur Police Station, Nagapattinam.

3.The District and Sessions Judge,
Nagapattinam.

4.The Superintendent,
Central Prison, Trichy.

5.The Public Prosecutor,
High Court, Madras.

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