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CrI.A.No.1540 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.A.No.1540 of 2023

Dharani Kumar
S/o.Ilayaperumal

... Appellant/Accused

Vs.

1.State: Deputy Superintendent of Police,
Cuddalore Circle,
(Crime No.641 of 2023 of Cuddalore
Pudhu Nagar Police Station)

2.State: The Inspector of Police,
Pudhu Nagar Police Station,
Cuddalore District.

3.Rajasekaran

... Respondents

Prayer: Criminal Appeal filed under Section 14A of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, to set aside the dismissal bail order dated 01.12.2023 passed by the learned Sessions Judge, Special Court for Exclusive Trial of SC and ST Act Cases, Cuddalore and release the appellant on bail pending investigation in Crime No.641 of 2023 on the file of the respondent.



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For Appellant : Mr.M.Dharanidharan
For Respondents-1 & 2 : Mr.S.Raja Kumar
Additional Public Prosecutor
For Respondent-3 : No appearance

ORDER

This Criminal Appeal has been filed to set aside the impugned order in Crl.M.P.No.1731 of 2023, dated 01.12.2023 passed by the learned Sessions Judge, Special Court for Exclusive Trial of SC and ST Act Cases, Cuddalore and enlarge the appellant on bail in connection with Crime No.641 of 2023 on the file of the 2nd respondent Police.

2.The appellant, who is an accused in Crime No.641 of 2023 for offences under Sections 294(b), 506(i) of I.P.C. and Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 was arrested by the respondent police on 16.11.2023. The appellant filed a bail application before the learned Sessions Judge, Special Court for Exclusive Trial of SC and ST Act Cases, Cuddalore in Crl.M.P.No.1731 of 2023 and the same was dismissed *vide* impugned order, dated 01.12.2023. Aggrieved over the same, the present Criminal Appeal is filed.



3.The appellant had taken private notice to the third respondent/de-facto complainant Rajasekaran, which was received on 22.12.2023.

Despite the name of the third respondent/de-facto complainant is printed in the cause list, there is no representation for the third respondent/de-facto complainant today. The de-facto complainant being an Advocate neither appeared before this Court in person nor through his counsel. In view of the same, this Court finds that the third respondent has got no serious objection. This Court proceeds to hear the appeal of the appellant, since the appellant is languishing in prison from 16.11.2023.

4.The case of the appellant is that the appellant had married one Arundhathi, who belongs to S.C. community. Thereafter, they had some matrimonial dispute and difference of opinion. The appellant's wife filed a divorce petition in H.M.O.P.No.115 of 2022 before the Family Court, Cuddalore and on 21.07.2022, divorce was granted. The de-facto complainant, an Advocate belongs to S.C. community, has filed the divorce petition on behalf of the appellant's wife. On 15.11.2023, while the de-facto complainant was in the Cuddalore Court premises, the appellant called him over phone, used abusive words and called him using his caste name and also



threatened him. The calls were continuously coming from 10.30 a.m. till 2.20 p.m. and all these calls were recorded and thereafter lodged a complaint to the respondent police, who verified the calls received by the de-facto complainant, registered an F.I.R. and arrested the accused.

5.The contention of the appellant is that the appellant had no ill feeling against the S.C. community. In fact, the appellant married one Arundhathi, who belongs to S.C. community and they lived as husband and wife happily. Due to some matrimonial dispute, they got separated. He further submitted that the divorce petition was filed by his wife and not by the appellant and the appellant has got no reason to use abusive words against the de-facto complainant, who appeared for his wife before the Lower Court. There is no reason for the appellant to use prohibitory words calling the de-facto complainant using his caste name and threaten him. He further submitted that the appellant was arrested on 16.11.2023. Almost major portion of the investigation has been completed.

6.The learned Additional Public Prosecutor submitted that in this case the de-facto complainant appeared before the Lower Court on behalf of the



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appellant's wife in the divorce petition. The appellant got enraged over the de-facto complainant appearing for his wife. The appellant called the de-facto complainant/Advocate, using abusive words not once but on several occasions between 10.30 a.m. to 2.20 p.m. The de-facto complainant produced the recordings of his speech by way of C.D. and also produced the mobile phone. On receipt of the same, after verifying the contents, the respondent police arrested the appellant. In this case the investigation is in progress. The C.D. as well as mobile phone were sent to forensic examination to verify the contents in the same. He further submitted that appellant's sample voice recorded and collected.

7.Considering the submissions made and on perusal of the material available on record it is seen that the appellant had love marriage with his wife Arundhathi, who belongs to S.C. Community, now they got separated and divorced. Further, substantial portion of the investigation progressed. The appellant had already given voice sample. Therefore, further detention of the appellant is not required.



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8. In view of the above, 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.5,000/- (Rupees five thousand only) with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Exclusive Trial of SC and ST Act Cases, Cuddalore.

(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 second respondent Police daily at 10.30 a.m., for a period of ten (10) days and thereafter as and when required by the Police.

(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;



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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.1731 of 2023, dated 01.12.2023 passed by the learned Sessions Judge, Special Court for Exclusive Trial of SC and ST Act Cases, Cuddalore is set aside and the Criminal Appeal is, accordingly, allowed.

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Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
Internet: Yes/No
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M.NIRMAL KUMAR, J.

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To

- 1.The Sessions Judge,
Special Court for Exclusive Trial of SC and ST Act Cases,
Cuddalore.
- 2.The Deputy Superintendent of Police,
Cuddalore Circle,
Cuddalore.
- 3.The Inspector of Police,
Pudhu Nagar Police Station,
Cuddalore District.
- 4.The Superintendent,
Central Prison
Cuddalore.
- 5.The Public Prosecutor,
High Court, Madras.

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