



Crl.A.No.1652 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.1652 of 2023

1.Kannammal

2.Priya

... Appellants

Vs.

1.The State rep. By
Inspector of Police,
Uthangarai Police Station,
Krishnagiri District.
[Crime No.769 of 2023].

2.Murugavalli

... Respondents

Prayer: Criminal Appeal filed under Section 14A(II) of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 2015 to set aside the order passed in Crl.M.P.No.4606 of 2023 and dismissed the bail plea on the file of the Principal Sessions Judge, Krishnagiri dated 12.12.2023 and enlarge the appellants on bail pending investigation in Crime No.769 of 2023 on the file of the respondent police.



WEB COPY



Crl.A.No.1652 of 2023

For Appellants : Mr.R.Sankarasubbu
For R1 : Mr.C.E.Pratap
Government Advocate [Crl. Side]

JUDGMENT

This Criminal Appeal has been filed to set aside the impugned order in Crl.M.P.No.4606 of 2023, dated 12.12.2023 passed by the learned Principal Sessions Judge, Krishnagiri and enlarge the appellants on bail in connection with Crime No.769 of 2023 on the file of the first respondent Police Station.

2.The gist of the case is that the defacto complainant/Murugavalli, daughter of Sotta Sekar @ Sekar lodged a complaint with the respondent police on 27.11.2023 complaining that on 26.11.2023 at about 6.00 a.m. her mother informed her that during the midnight of 25.11.2023 her father and mother were abused and assaulted by Subramani [A1], his brother-in-law and five others. They tied her father in the transformer pole, beaten him mercilessly and took him in a TATA ACE vehicle. Thereafter, they came to the defacto complainant's house, searched her house but nothing was found



and thereafter, she was also taken along with her father dropped in the entrance of the Village where the defacto complainant and wife of A1 were asked to stay. Again, the defacto complainant's father was beaten mercilessly using sticks, pole and 1½ hours thereafter, some articles were taken from the house of Seerangam and by that time, Mathur Police came there and advised the villagers not to further assault and cause injury to the defacto complainant's father and asked them to bring him to the Police Station. Her father was abused as though he usually bribed the police to escape from them but this time they were not ready to leave him and by calling him using the caste name, they again continued to assault the defacto complainant's father. He was beaten on his face, chest, stomach and all over the body. The defacto complainant pleaded mercy for her father but nothing was heeded. Blood oozed out from her father's left ear and using cutting plier nails were plucked out from his legs. They also doused him in water and again beaten him. Thus, in front of the defacto complainant her father was abused, assaulted and beaten mercilessly. Later the defacto complainant's father succumbed to injuries and thereafter, she lodged a complaint.



3. Notice was ordered to the defacto complainant who received the same and appeared before this Court on 18.01.2024 and submitted that the appellants who are relatives to her not committed any assault on her father and only on the confession of A1, the appellants falsely implicated in this case. She further submitted that she has not lodged complaint against the appellants and their names does not find in the complaint or FIR.

4. The contention of the learned counsel for the appellants submitted that to dilute the intensity of the case, the appellants were falsely implicated in this case. He would submit that the complaint is that some pooja articles were found missing from the house of Subramani on 20.11.2023. Five days prior, the defacto complainant's father Sotta Sekar @ Sekar went to the house of A1 seeking some food and hence, doubts raised against the said Sotta Sekar @ Sekar to have stolen the articles. He was called for enquiry on 26.11.2023 and on enquiry, he has given inconsistent answers, thereafter he informed that the articles were kept in two bags in the house of the appellants. The first appellant is said to have informed that she was given only one bag and brought one yellow bag from the field and handed over to A1. Since the said Sotta Sekar @ Sekar was insisting that the other bag was



also with the appellants, they assaulted him using stick. He would submit that the appellants are related to the defacto complainant and they have nothing to do with the assault committed by the other accused. Further, since the appellants and the defacto complainant belong to Scheduled Caste community, the question of proceeding against them under the SC/ST Act would not arise.

5.The learned Additional Public Prosecutor submitted that in this case so far 14 persons were arrayed as accused, the appellants were arrayed as A3 and A4 and on the confession of A1, the names of the appellants were included in this case. He would submit that the deceased Sotta Sekar @ Sekar informed A1 that he gave two bags containing the idols and pooja articles to the appellants, the first appellant also produced one bag and with regard to the other bag, as a diversionary tactics the said Sotta Sekar @ Sekar has stated so. Enraged against this, the appellants said to have assaulted the defacto complainant's father. He confirmed that the appellants are relatives to Sotta Sekar @ Sekar and the defacto complainant. He further submitted that the investigation is in progress, brutal attack on the deceased was confirmed by the medical evidence. The Postmortem Doctor



confirms the deceased died due to shock, haemorrhage and due to multiple blunt force injuries sustained by him. The said Sotta Sekar @ Sekar was assaulted by the villagers mercilessly for two days and finally he succumbed to injuries. As of now, there are no statement other than A1 confession against the appellants. He would further submit that during investigation, if found the appellants not involved in the case, they would be dropped from the case.

6.Considering the submissions made and on perusal of the materials, it is seen that the appellants are related to the deceased Sotta Sekar @ Sekar, the appellants were arrayed as A3 and A4 in this case, only on the confession of A1, the appellants are implicated in this case and this confession is doubtful. Implications are common by confession. It is the Investigation Agency to consider the over all materials collected and to take a decision as to what extent, it can be relied upon. As on date, there is nothing against the appellants except for the confession of A1 which would not suffice to detain the appellants in prison.



7. 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.5,000/- (Rupees five thousand only) each with one surety each for a like sum to the satisfaction of the Special Court under SC & ST [Prevention of Atrocities] Act, Krishnagiri.

(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 respondent Police as and when required for interrogation.

(iv) The appellants shall not give any inconvenience or trouble knowingly or unknowingly to the 2nd respondent, failing which, the bail shall be cancelled without any further reference.

(v) the appellants shall not commit any offences of similar nature;



Crl.A.No.1652 of 2023

WEB COPY

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

(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 appellants 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.4606 of 2023, dated 12.12.2023 passed by the learned Principal Sessions Judge, Krishnagiri is set aside and the Criminal Appeal is, accordingly, allowed.

23.01.2024

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

cse

Note: Issue order copy on 24.01.2024



Crl.A.No.1652 of 2023

WEB COPY

To

- 1.The Principal Sessions Court,
Krishnagiri.
- 2.The Inspector of Police,
Uthangarai Police Station,
Krishnagiri District.
- 3.The Superintendent,
Central Prison [Women],
Salem.
- 4.The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.A.No.1652 of 2023

M.NIRMAL KUMAR, J.

cse

Crl.A.No.1652 of 2023

23.01.2024