



WEB COPY



Crl.O.P.No.31809 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.31809 of 2024

Masanamuthu

... Petitioner

Vs.

1.The Deputy Superintendent of Police,
Pollachi Sub Division,
Coimbatore District.

2.The Inspector of Police,
Mahalingapuram Police Station,
Coimbatore District.
(Crime No.195 of 2024)

3.Kathirvel

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 BNSS, to direct the Special Court for trial of cases under SC/ST (PoA) Act, Coimbatore District to consider the application of the petitioner on the same day on his surrender in connection with Crime No.195 of 2024, on the file of the second respondent Police.

For Petitioner : Mr.S.Veerasanthi
For Respondents : Mr.S.Sugendran
Additional Public Prosecutor
for R1 and R2



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ORDER

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This Criminal Original Petition is filed to direct the learned Special Court for trial of cases under SC/ST (PoA) Act, Coimbatore District to consider the bail application of the petitioner on the same day of his surrender pertaining to Crime No.195 of 2024, on the file of the second respondent-Police.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent and also perused the materials available on record.

3. It is to be noted that as per Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short "SC/ST Act"), there is a bar to file a petition under Section 482 Cr.P.C./528 of B.N.S.S. Therefore, Anticipatory Bail is not maintainable for the offence under the SC/ST Act. Further Section 15A under Chapter IV-A was introduced by Act 1 of 2016 w.e.f. 26.01.2016, as per which, notice has to be sent to the victim, in respect of any proceedings and without giving notice, no proceedings shall be proceeded further. Further, the inherent power under Section 482 Cr.P.C./528 of B.N.S.S. should not be invoked automatically and the jurisdiction under Section 482 Cr.P.C./528 of B.N.S.S. should be exercised sparingly. When there is a specific bar under the Special Act, this Court



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cannot ignore the intention of the Legislators and the purpose of enactment of the Special Act. If the petitioners application is directed to be considered on the same day without giving notice to the victim, the purpose of Sections 18 and 15A(3)(5) of SC/ST Act would be defeated and the same would curtail the statutory right of the victim.

4. Under such circumstances, this Court is not inclined to invoke Section 482 Cr.P.C./528 of B.N.S.S., which would amount to ignoring the provisions of the Special Act. Therefore, this petition shall stand dismissed. However, the petitioner is at liberty to workout his remedy in the manner known to law and the learned Special Judge/Magistrate is directed to exercise his/her discretionary power after giving notice to the victim. The learned Special Judge/Magistrate is also directed to adhere the statutory provisions of Sections 18 and 15 A (3)(5) of SC/ST Act.

19.12.2024

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

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(Crime No.195 of 2024)
- 3.The Special Court for trial of cases under SC/ST (PoA) Act,
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P.VELMURUGAN, J

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