



CRL.A(MD)No.47 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 20.02.2024

CORAM

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

CRL.A(MD)No.47 of 2024

Umayamuthu @ Umayamuthuramalingam

.. Appellant/A4

Vs.

1. The Deputy Superintendent of Police,

Thoothukudi Town Sub Division,

Thoothukudi.

.. 1st Respondent/ Investigating Officer

2. The State through

The Inspector of Police,

Thermalnagar Police Station,

Thoothukudi District.

(Crime No.45 of 2017)

.. 2nd Respondent/ Complainant

3.Selvam

.. 3rd Respondent/ *De-facto*
Complainant



CRL.A(MD)No.47 of 2024

WEB COPY

Prayer : This Criminal Appeal is filed under Section 14(A)(2) of the Schedule Castes and Tribes Prevention of Atrocities Act, 2015 (Amended by Act 1 of 2016), to call for the records relating to the order dated 03.01.2024 passed in Cr.M.P.No.1300 of 2023 on the file of the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, 1989, Thoothukudi and set aside the same and grant bail to the appellant by allowing the Criminal Appeal.

For Appellant : Mr.K.Suyambulingabharathi
For Respondents : Mr.A.Thiruvadi Kumar – for R1 & R2
Additional Public Prosecutor
No Appearance – for R3

JUDGMENT

This Criminal Appeal has been filed to call for the records relating to the order, dated 03.01.2024 passed in Cr.M.P.No.1300 of 2023 on the file of the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi and to set aside the same.



CRL.A(MD)No.47 of 2024

WEB COPY

2. The case of the prosecution is that on 30.04.2017 at about 17.00 hours, A4 along with other accused assembled unlawfully and used filthy language towards the *de-facto* complainant and others and attacked the third respondent/*de-facto* complainant with hand, stone and stick and verbally abused him with the name of his caste and hence, the complaint.

3. Learned counsel for the appellant would submit that the appellant has been falsely implicated in this case and he is innocent and has not committed any offence as alleged by the prosecution. He would further submit that the appellant is in judicial custody from 30.10.2023 onwards.

4. The appellant moved bail application before the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi, in Cr.M.P.No.1300 of 2023 and the same was dismissed on 03.01.2024.



CRL.A(MD)No.47 of 2024

WEB COPY

5. Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor appearing for the respondents 1 and 2 submitted that the occurrence took place on 30.04.2017 and the case is pending for a long time for non appearance of A4 and on execution of NBW, A4 was remanded to judicial custody. He further submitted that even after serving of notice to the *de-facto* complainant, he has not present before this Court today.

6. Heard the learned counsel on either side and perused the materials available on record.

7. Considering the above facts and circumstances of the case and also the duration of his incarceration i.e., from 30.10.2023, this Court is inclined to allow the Criminal Appeal, by setting aside the order dated 03.01.2024 made in Cr.M.P.No.1300 of 2023 passed by the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi.



CRL.A(MD)No.47 of 2024

WEB COPY

8. Accordingly, the Criminal Appeal is allowed and the order dated 03.01.2024 made in Cr.M.P.No.1300 of 2023 on the file of the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi, is set aside. The appellant is ordered to be released on bail, subject to the following conditions:

[a] The appellant shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi;

[b] The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;



WEB COPY



CRL.A(MD)No.47 of 2024

[c] The petitioner shall appear and sign before the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi, on the first working day of every English calender month at 10.30 a.m., until further orders;

[d] In case, if the petitioner is unable to appear before the Court on the first working day of a month, he shall appear on the next working day;

[e] The appellant shall not tamper with evidence or witness either during investigation or trial;

[f] The appellant shall cooperate with the investigation;

[g] On breach of any of the aforesaid conditions, the learned Sessions Judge/Trial Court is entitled to take



CRL.A(MD)No.47 of 2024

WEB COPY

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 Sessions Judge/Trial Court himself as laid down by the Hon'ble Supreme Court in ***P.K.Shaji vs. State of Kerala [(2005) AIR SCW 5560]***; and

[h] If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A of IPC.

20.02.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No

RM



CRL.A(MD)No.47 of 2024

Note:

WEB COPY

- 1. Registry is directed to forthwith upload this order in the official website of this Court.**
2. All concerned to act on this order being uploaded in official website of this Court without insisting on certified copies. To be noted, this order when uploaded in official website of this Court will be watermarked and will also have a QR code.



CRL.A(MD)No.47 of 2024

WEB COPY

To

- 1.The Sessions Judge,
Special Court for Trial of Cases under SC/ST (POA) Act,
Thoothukudi,
- 2.The Deputy Superintendent of Police,
Thoothukudi Town Sub Division,
Thoothukudi.
3. The State through
The Inspector of Police,
Thermalnagar Police Station,
Thoothukudi District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 5.The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The District Jail,
Peravoorani,
Thoothukudi District.



WEB COPY



CRL.A(MD)No.47 of 2024

VIVEK KUMAR SINGH, J.

RM

CRL.A(MD)No.47 of 2024

20.02.2024