



CrI.A.(MD).No.230 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CrI.A.(MD).No.230 of 2024

1.B.Ashok Kumar

2.A.Sundar @ Kaleeswaran

3.A.Mohammed Hafeez

... Appellants /
Accused Nos.1 to 3

Vs.

1.The State Rep by
The Deputy Superintendent of Police,
Paramakudi Town Police Station,
Ramanathapuram Distrtict.

2.The Inspector of Police,
Paramakudi Town Police Station,
Paramakudi,
Ramanathapuram District.
Crime No.70 of 2024

... Respondents
/ Complainant

3.Samuel

... 3rd Respondent /
De-facto Complainant



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PRAYER : Criminal Appeal filed under Section 14 A (2) of SC/ST (Prevention of Atrocities) Act, 1989 as amended by Act 1 of 2015 r/w Section 439 of Cr.P.C, to call for the entire records relating to the order dated 06.03.2024 in Crl.M.P.NO.332 of 2024 by the Special Court for SC/ST (Prevention of Atrocities) Act cases, Ramanathapuram and set aside the same as arbitrary and consequently to release the appellants on Bail in connection with the Crime No.70 of 2024 on the file of 2nd respondent Police Station.

For Appellant : Mr.K.Samidurai

For Respondents : Mr.M.Muthumanikkam
Government Advocate (Crl.Side)
For R1 & R2

:Mr.V.Kannan
Legal-Aid-Counsel for R3

JUDGMENT

This Criminal Appeal has been filed to set aside the impugned order passed in Crl.M.P.No.332 of 2024 dated 06.03.2024, on the file of the learned Sessions Judge, Special Court for trial of Cases under SC/ST (PoA) Act, Ramanathapuram and enlarge the appellants on bail in connection with Crime No.70 of 2024, on the file of the second respondent police.



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2.1. According to the prosecution, the appellants are said to have committed the offences under Sections 363, 324, 506(ii) of IPC and 3(2) (Va) of SC/ST Prevention of Atrocities Amendment Act 2015.

2.2. According to the defacto-complainant, he is a previous employer of the accused No.1's company, namely, J.J.Gold and while he was working in the said company, some dispute arose between them, due to which, there was some altercation between the parties. In the result, the defacto complainant was said to have been assaulted by the appellants and was abused by using his caste name. Therefore, the defacto complainant has given a complaint before the second respondent police, and the same was registered in Crime No.70 of 2024 against all the appellants for the offences under Sections 363, 324, 506(ii) of IPC and 3(2)(Va) of SC/ST Prevention of Atrocities Amendment Act 2015, and they were arrested. Thereafter, the appellants filed a petition for bail in Cr.M.P.No.332 of 2024 before the learned Sessions Judge, Special Court for Trial of cases under SC/ST (PoA) Act, Ramanathapuram, and the same was dismissed on 06.03.2024.



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Challenging the same, the appellant has preferred this Criminal appeal.

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3. After serving notice, the defacto complainant appeared before this Court and requested this Court to appoint a legal-aid-counsel. At his request, Mr.V.Kannan, the learned counsel was appointed as Legal-aid-counsel for assisting the Court on behalf of the third respondent/defacto complainant.

4. The learned counsel for the appellants submitted that the allegations stated in the FIR is not correct and there was some dispute, which has been exaggerated by the petitioner. The injured was also discharged from the hospital. Further, he would submit that the learned trial Judge ought to have considered that the bare perusal of the FIR, would clearly disclose that only with *mala fide* intention, the complaint has been lodged by the defacto complainant. The appellants were arrested and remanded to judicial custody on 01.03.2024. Under the said circumstance, he seeks bail to the appellants.



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5. The learned Government Advocate (Criminal Side) appearing for the State would submit that the investigation was not completed and there was no previous antecedents to the appellants. The allegation that the defacto complainant was kidnapped by the appellant is to be seriously viewed and considering the seriousness of the offence, he seeks for the dismissal of this appeal confirming the dismissal of bail order passed by the Court below.

6. The learned counsel for the defacto complainant reiterated the submission of the learned Government Advocate (Criminal Side) and further submitted that still there is life threat to the defacto complainant and hence, he seeks for dismissal of this appeal.

7. This Court considered the rival submissions made on either side and perused the materials available on record.

8. The defacto complainant's name is Samuel . Furhter, in the FIR it is stated that “நான் கிறிஸ்தவ பறையர் சமுதாயத்தைச் சேர்ந்தவன்.”



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Therefore, this Court concurs with the submission of the learned counsel for the appellant that the applicability of the Act itself is doubtful. Apart from this, now, the injured is discharged from the hospital. Further, the appellants were arrested on 01.03.2024 and from that date onwards, they are in custody in Central Prison, Madurai. They have no previous antecedents.

9. Considering the above circumstances and the period of incarceration and the reasonable doubt over the applicability of the Act, the discharge of the injured from the hospital and no plea of communal tensions, this Court is inclined to allow the Criminal Appeal by setting aside the order, dated 06.03.2024 made in Cr.M.P.No.332 of 2024 on the file of the learned Sessions Judge, Special Court for Trial of Cases registered Under SC/ST (PoA) Act 1989, Ramanathapuram.

10. Accordingly, the Criminal Appeal is allowed and the order dated 06.03.2024 made in Cr.M.P.No.332 of 2024 on the file of the learned Sessions Judge, Special Court for Trial of Cases Registered under SC/ST (PoA) Act 1989, Ramanathapuram is set aside. The appellants are ordered to



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be released on bail on their executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties, each for a like sum to the satisfaction of the Special Court for Trial of Cases Registered under SC/ST (PoA) Act 1989, Ramanathapuram, and on further conditions that:

(a) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Special Court for Trial of Cases Registered under SC/ST (PoA) Act 1989, Ramanathapuram, may obtain a copy of their valid identity card to ensure their identity.

(b) the appellants shall report before the second respondent Police Station, daily at 10.30 am, until further orders.

(c) the appellants shall not indulge in tampering the evidence or witnesses either during investigation or trial.

(d) the appellants shall co-operate with the investigation.

(e) On breach of any of the aforesaid conditions, the learned 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 appellants were released on bail by the learned Magistrate/Trial



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

(f) If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

05.04.2024

NCC :Yes/No

Index :Yes/No

Internet :Yes/No

sbm

Note: Issue order copy on 08.04.2024



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- 1.The Special Court for Trial of Cases
Registered under SC/ST (PoA) Act 1989, Ramanathapuram
- 2.The Deputy Superintendent of Police,
Paramakudi Town Police Station,
Ramanathapuram District.
- 3.The Inspector of Police,
Paramakudi Town Police Station,
Paramakudi,
Ramanathapuram District.
- 4.The Superintendent of Prison,
Central Prison, Madurai.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 6.The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

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