



Crl.A.(MD).No.267 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.04.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.A.(MD).No.267 of 2024

Gunasekaran @ Gunasekar

... Appellant /Sole Accused

Vs.

1.The Deputy Superintendent of Police,
Dindigul Rural Sub-Division,
Dindigul District.

2.State by
The Inspector of Police,
Chinnalapatti Police Station,
Dindigul District.
(Crime No.31 of 2024)

... Respondents 1 & 2
/ Complainants

3.Murugeswari

... 3rd Respondent /
De-facto Complainant

PRAYER : Criminal Appeal filed under Section 14 A (2) of SC/ST (Prevention of Atrocities) Act, 2015, to call for the entire records pertaining to the order passed by the Special Court for Trial of Cases under SC/ST(PoA) Act, Dindigul in Cr.M.P.No.468 of 2024, vide order dated



Crl.A.(MD).No.267 of 2024

22.03.2024 and set aside the same and consequently release the appellant on bail in connection with the Crime No.31 of 2024 pending on the file of the second respondent.

For Appellant : Mr.R.Anand

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

:Mr.P.Krishnaveni for R3

JUDGMENT

This Criminal Appeal has been filed to set aside the impugned order passed in Cr.M.P.No.468 of 2024, vide order dated 22.03.2024, on the file of the learned Sessions Judge, Special Court for Trial of Cases under SC/ST(PoA) Act, Dindigul, and enlarge the appellant on bail in connection with Crime No.31 of 2024, on the file of the second respondent Police.

2.1. According to the prosecution, the appellant is said to have committed the offences under Sections 294(b), 323, 506(ii) of IPC r/w. Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, r/w. Sections 3(1)(s), 3(1)(w)(i) of SC/ST (PoA) Amendment Act 2015.



Crl.A.(MD).No.267 of 2024

WEB COPY

2.2. According to the prosecution, the appellant is the sole accused in Crime No.31 of 2024. The defacto complainant is a practising Advocate and her senior is brother-in-law of the accused/appellant. The petitioner is said to have abused the defacto complainant and also criminally intimidated through voice message. Hence, she made a complaint before the second respondent Police. Thereby, the second respondent Police registered a case as against the appellant/accused in Crime No.31 of 2024 for the offence punishable under Sections 294(b), 323, 506(ii) of IPC r/w. Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, r/w. Sections 3(1) (s), 3(1)(w)(i) of SC/ST (PoA) Amendment Act 2015. Thereby, the appellant/accused was arrested. After his arrest, the second respondent Police sought custody of the appellant and the same was allowed by the concerned Court and incriminating materials were also collected. Thereafter, the appellant filed a petition for bail before the Special Court for Trial of Cases under SC/ST (PoA) Act, Dindigul, in Cr.M.P.No.468 of 2024. The learned Special Judge, dismissed the said bail application, stating that the investigation is at preliminary stage. Challenging the same, the appellant has preferred this Criminal appeal.



Crl.A.(MD).No.267 of 2024

WEB COPY

3. The learned counsel for the appellant would submit that the appellant is not involved in the alleged occurrence stated in the complaint made by the third respondent/defacto complainant. Further, there was some dispute between the appellant and the defacto complainant regarding filing of M.C.O.P.No.338 of 2024. Further, it was submitted that even though there had been some dispute between the appellant and the defacto complainant, this Court may consider this petition taking into account the incarceration suffered by the appellant and further, the appellant will not abscond and he will not tamper the prosecution witnesses, if he comes out on bail. Under the said circumstance, he seeks bail to the appellant.

4. The defacto complainant is present before this Court in person and appeared through video call along with her counsel and she stated that the appellant abused her by filthy language using her caste name and threatened her through voice message. She made a request before this Court to hear the said audio message, which was sent by the appellant to the defacto complainant. If the appellant is released on bail, there is every



Crl.A.(MD).No.267 of 2024

possibility of threat to the defacto complainant's life. Hence, she seeks to dismiss this appeal.

5. The learned Government Advocate (Criminal Side) appearing for the State would submit that investigation is almost completed and there is no previous case pending against the appellant/accused.

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

7. From the rival submission made on either side and the averment in the FIR, it is learnt that the defacto complainant is a “practising advocate”. The appellant is her senior's brother-in-law. On 01.03.2024, he sent a voice message to her cellphone with abusive words and criminally intimidated her. Hence, the defacto complainant made a complaint before the second respondent Police. The second respondent Police registered the case and arrested the appellant/accused on 04.03.2024 and the Police custody was ordered and incriminating materials also were recovered. Now,



CrI.A.(MD).No.267 of 2024

WEB COPY

the investigation is almost completed and awaiting the FSL report. Further, there is no previous case pending against the appellant. Apart from that, the appellant is in incarceration in Central Prison, Madurai from 04.03.2024. Considering the above facts and circumstances and the period of incarceration and the stage of the investigation and also the fact that the appellant has no previous antecedents and no case of communal tension is pleaded by the prosecution, this Court is inclined to allow the Criminal Appeal by setting aside the order, dated 22.03.2024 made in Cr.M.P.No.468 of 2024 on the file of the learned Sessions Judge, Special Court for Trial of Cases registered Under SC/ST (PoA) Act, Dindigul.

8. Accordingly, the Criminal Appeal is allowed and the order dated 22.03.2024 made in Cr.M.P.No.468 of 2024 on the file of the learned Sessions Judge, Special Court for Trial of Cases Registered under SC/ST (PoA) Act, Dindigul is set aside. The appellant is ordered to be released on bail on his executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, for a like sum to the satisfaction of the Special Court for Trial of Cases Registered under SC/ST (PoA) Act, Dindigul, and on further conditions that:



Crl.A.(MD).No.267 of 2024

WEB COPY

(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, Dindigul, may obtain a copy of their valid identity card to ensure their identity.

(b) the appellant shall report before the **Inspector of Police, Virudhunagar West Police Station, Virudhunagar**, daily at 10.30 am, until further orders.

(c) the appellant shall not tamper with evidence or the witnesses either during investigation or trial.

(d) the appellant 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 appellant in accordance with law as if the appellant was released on bail and conditions were imposed by the learned Magistrate/Trial Judge himself as



Crl.A.(MD).No.267 of 2024

WEB COPY

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.

10.04.2024

NCC :Yes/No

Index :Yes/No

Internet :Yes/No

Indu

Note:Issue Order Copy on 12.04.2024.



Crl.A.(MD).No.267 of 2024

To
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- 1.The Special Court for Trial of Cases
Registered under SC/ST (PoA) Act 1989, Dindigul.
- 2.The Deputy Superintendent of Police,
Dindigul Rural Sub-Division,
Dindigul District.
- 3.The Inspector of Police,
Chinnalapatti Police Station,
Dindigul District.
- 4.The Prisoner,
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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Crl.A.(MD).No.267 of 2024

K.K.RAMAKRISHNAN, J.

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Crl.A.(MD).No.267 of 2023

10.04.2024