



Crl.A.(MD)No.446 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2024

CORAM

THE HON'BLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.A.(MD)No.446 of 2024

and

Crl.M.P.(MD)No.5383 of 2024

- 1.Suresh
- 2.Kalaivanan
- 3.Vallarasu
- 4.Muniyasamy
- 5.Kumar
- 6.Vadivel

... Petitioners/Appellants/Accused 1 to 6

vs

- 1.State rep. By its

The Deputy Superintendent of Police,
Narikudi Police Station,
Thiruchuli Sub Division,
Virudhunagar District.
(Crime No.40 of 2018)

... Respondent/Respondent/Complainant

- 2.Krishnan

... Respondent/Respondent/Defacto Complainant

PRAYER: Criminal Appeal filed under Section 14(A) (2) SC/ST (POA) Act, against the docket order passed in Spl.S.C.No.32 of 2020 dated 07.03.2024 by the learned Special Court for Trial of cases under SC/ST(POA) Act, Srivilliputhur for the alleged offences punishable under Sections 147, 148, 294(b), 323, 324 and 506(ii) of IPC and 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST(POA) Act.



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For Appellants : Mr.T.Balakrishnan
For R1 : Mr.R.Sivakumar
Government Advocate(Crl.Side)
For R2 : Mr.Krishnan
Party-in-Person
Defacto complainant

J U D G M E N T

This Criminal Appeal has been filed against the docket order passed in Spl.S.C.No.32 of 2020 dated 07.03.2024 by the learned Special Court for Trial of cases under SC/ST(POA) Act, Srivilliputhur for the alleged offences punishable under Sections 147, 148, 294(b), 323, 324 and 506(ii) of IPC and 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST(POA) Act.

2. The applicants are the accused in Crime No.40 of 2018. They said to have committed the offences under Sections 147, 148, 294(b), 323, 324 and 506(ii) of IPC and 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST(POA) Act. The earlier application seeking bail and the same was granted. Subsequently, the final report was filed and the same was taken in C.C.No.32 of 2020. Thereafter, the summon was issued to the appellant and other accused. The case was posted on 07.03.2024 for trial. L.W 1 to 5 were present but A1 to A6 were absent and hence the trial Judge cancelled the bail bond and issued NBW without following any procedure. Hence the petitioner filed an appeal before this Court.



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3. This Court issued a notice to the defacto complainant. The defacto complainant present before this court and approaches for granting of the order for the appellant.

4. The learned Government Advocate(Crl.side) stated that in view of the non-appearance, the trial was dismissed. Hence he seeks dismissal of the petition. In this type of case, it is not necessary to give opportunity to the appellants.

5. This Court has considered the rival submissions and perused the records.

6. Admittedly, the appellants are said to have involved under Sections 147, 148, 294(b), 323, 324 and 506(ii) of IPC and 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST(POA) Act. The earlier bail granted and subsequently he has not appeared on the date of fixing the trial. From the records, this Court unable to find the summons served or not. In such circumstances, the learned trial Judge is not following the procedure under Section 441 of Cr.P.C., cancelled the surety bond and issued NBW and the same is not in accordance with law. Hence this court is inclined to set aside the order by the trial Judge.



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7. Accordingly, this Court allow this appeal with the following terms:-

(i) the impugned order, dated 07.03.2024, passed in Spl.S.C.No.32 of 2020 on the file of the learned Special Court for Trial of cases under SC/ST(POA) Act, Srivilliputhur is set aside.

(ii) The appellants are directed to appear before the concerned Court till the completion of the trial; and

(iii) The appellant are directed to comply the condition without any fault. In the event of the non-compliance of this order, it is open to the learned Government Advocate (Crl. Side) to file appropriate petition for cancellation of the same.

Consequently, connected miscellaneous petition is also closed.

14.06.2024

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

RJR

To

1. The learned Special Court for Trial of cases under
SC/ST(POA) Act, Srivilliputhur.

2. The Deputy Superintendent of Police,
Narikudi Police Station,
Thiruchuli Sub Division,
Virudhunagar District.



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3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

4.The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

RJR

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