



Crl.A.(MD)No.445 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.06.2024

CORAM

THE HONOURABLE MR. JUSTICE K.K.RAMAKRISHNAN

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1.Gunaseelan

2.Karthick ... Appellants
(this criminal appeal is dismissed as withdrawn as against the first appellant
vide order dated 23.05.2024)

Vs.

1.The Deputy Superintendent of Police,
Oomatchikulam Sub-Division, Madurai District.
(In Cr.No.16 of 2024 on the file of
Oomatchikulam Police Station)

2.Muniyandi ... Respondents

PRAYER: Criminal Appeal filed under Section 14-A (2) of the Schedule Caste and Tribes Prevention of Atrocities Act, as against the order passed by the III Additional District and Sessions Court (PCR), Madurai in Cr.M.P.No. 846 of 2024 dated 15.05.2024.

For Appellants : Mr.J.Willaiam Christopher

For R1 : Mr.B.Nambiselvan,
Additional Public Prosecutor.

For R2 : Mr.A.Ramkumar



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JUDGMENT

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This Criminal Appeal has been filed to set aside the impugned order passed in Cr.M.P.No.846 of 2024 dated 15.05.2024, on the file of the III Additional District and Sessions Court (PCR), Madurai, and enlarge the appellants on bail in connection with Crime No.16 of 2024, on the file of the respondent police.

2.1.According to the prosecution, the appellants are said to have committed the offence under Section 174 Cr.P.C., altered into Sections 294(b), 342, 302, 201 IPC and Sections 3(2)(V) of SC/ST (Prevention of Atrocities)Act.

2.2.According to the prosecution, there was previous enmity between the defacto complainant's son and the accused persons. The defacto complainant's son used to indulge in wordy quarrel with the accused persons and he stole away the two wheeler of A3. Moreover, he had enmity with A2 in respect of theft of his cell phone. Therefore, on 27.02.2024 at 09.00 pm., the accused persons have murdered the defacto complainant's son. Immediately the defacto complainant lodged a complaint with the respondent police. The respondent police initially registered the case in Crime No.415 of



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2023, under Section 174 Cr.P.C., and subsequently, the same was altered into Sections 294(b), 342, 302, 201 IPC and Sections 3(2)(V) of SC/ST (Prevention of Atrocities) Act. Thereafter, the appellants have filed a petition for bail in Cr.M.P.No.846 of 2024, before the III Additional District and Sessions Court (PCR), Madurai. The same was dismissed on 15.05.2024. Challenging the same, the appellants have preferred this Criminal Appeal.

3.The learned counsel for the appellants would submit that the appellants are not involved in the alleged occurrence as stated in the complaint. As far as the first appellant is concerned, already the Court below granted bail to him vide order made in Crl.M.P.No.1081 of 2024, dated 30.05.2024 and hence, this appeal was withdrawn as against him vide order dated 23.05.2024. He would further submit that the Court below granted bail to A2 in this case vide order made in Crl.M.P.No.1037 of 2024 dated 30.05.2024. The second appellant herein is in judicial custody for the past 81 days. Hence, he seeks bail.

4.The learned Additional Public Prosecutor appearing for the first respondent Police objected to grant bail on the ground that if the appellant is released on bail, he will indulge in similar offences again and there is a chance of threatening the witnesses; and also a possibility of absconding



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without appearing for trial. In view of the above situation, he seeks for dismissal of this appeal by confirming the order passed by the Court below.

5.The learned counsel appearing for the second respondent/defacto complainant reiterated the submission of the learned Additional Public Prosecutor and strongly objected to release the second appellant on bail. Further, he also stated that the manner of the incident is to be taken into consideration while dealing this appeal. He has also stated that there is serious life threatening to the witness. Hence, he seeks for dismissal of this appeal.

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

7.As per the allegation of the prosecution, the second respondent's son is the deceased Ilayaraja. A1 was running a butcher shop. One week prior to the occurrence, the deceased made a wordy quarrel with A1 in his shop. The deceased also said to have stolen the two wheeler of A3 and Cell phone of A2. Therefore, they said to have conspired together and murdered the deceased on 27.02.2024 at 09.00 p.m. Hence, the defacto complainant lodged a complaint to the respondent police. The respondent police initially



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registered the case in Crime No.415 of 2023, under Section 174 Cr.P.C., and subsequently, the same was altered to Sections 294(b), 342, 302, 201 IPC and Sections 3(2)(V) of SC/ST (Prevention of Atrocities) Act. Admittedly, there is no eye witness to the occurrence and the main accused A1 and A2 were released on bail by the Court below. The second appellant is only A4. The filed report has also been filed and the same was taken on file in Spl.S.C.No. 34 of 2024. Considering the above circumstances and the period of incarceration of the second appellant and no case of communal tension was pleaded by the prosecution, this Court is inclined to allow this Criminal Appeal by setting aside the order, dated 15.05.2024 made in Cr.M.P.No.846 of 2024, on the file of the III Additional District and Sessions Court (PCR), Madurai.

8. Accordingly, this Criminal Appeal is allowed and the order dated 15.05.2024 made in Cr.M.P.No.846 of 2024, on the file of the III Additional District and Sessions Court (PCR), Madurai is set aside. The second 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 III Additional District and Sessions Court (PCR), Madurai and on further conditions that:



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a)the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the III Additional District and Sessions Court (PCR), Madurai may obtain a copy of their valid identity card to ensure their identity;

b)the second appellant shall report before the respondent Police daily at 10.30 am., for a period of fifteen days and thereafter, as and when required;

c)the second appellant is directed to appear before the III Additional District and Sessions Court (PCR), Maduraion the date of hearing and except for that purpose, he is strictly instructed not to enter into the place till the disposal of the trial;

d)the second appellant shall not tamper with evidence or witness either during investigation or trial;

e)the second appellant shall co-operate with the investigation;

f)on breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the second appellant in accordance with law as if the conditions have been imposed and the second appellant was released in bail by the learned Magistrate/ 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



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g) If the accused thereafter absconds, a fresh FIR can be registered

under Section 229-A of IPC.

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NCC :Yes/No

Index :Yes/No

Internet :Yes/No

gns/sbn

Note: Issue Order Copy on 14.06.2024

To

1.The III Additional District and Sessions Court (PCR), Madurai

2.The Deputy Superintendent of Police,
Oomatchikulam Sub-Division,
Madurai District.

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

4.The Superintendent of Prison,
Sub Jail, Theni.

5. The Section Officer, Criminal Section,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

gns/sbn

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