



Crl.A(MD)No.772 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.09.2024

CORAM

THE HONOURABLE MR. JUSTICE G.ILANGO VAN

Crl.A(MD)No.772 of 2024

Mani @ Subramaniyan

.. Appellant/Petitioner/2nd accused

Vs.

**1.The Deputy Superintendent of Police,
Cheranmahadevi Sub Division,
Tirunelveli District.**

**... 1st Respondent/Respondent/
Investigating Officer**

**2.The Inspector of Police,
Munneerpallam Police Station,
Tirunelveli District.**

**... 2nd Respondent/Respondent/
Complainant**

3.Uthaya Ruban

... 3rd Respondent/Defacto Complainant

Prayer : This Appeal is filed under Section 14A(2) of the Scheduled Castes and the Scheduled Tribes (Amendment Act), 2015, to call for the records pertaining to the order dated 09.09.2024 made in Cr.M.P.No.3159 of 2024 on the file of the II Additional Sessions Judge (PCR), Tirunelveli and set aside the same and enlarge the appellant on bail in connection with Crime No.354 of 2024 on the file of the 2nd respondent by allowing this appeal.

For appellant

: Mr.D.Venkatesh

For R-1 & R-2

**: Mr.M.Sakthi Kumar
Government Advocate (Crl. Side)**

For R3

: No Appearance



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J U D G M E N T

Heard the learned Counsel appearing for the appellant and learned Government Advocate (Crl. Side) appearing for the respondents 1 & 2.

2.This Criminal Appeal has been filed to set aside the order, dated 09.09.2024 made in Cr.M.P.No.3159 of 2024 on the file of the II Additional Sessions Judge (PCR), Tirunelveli and enlarge the appellant on bail in connection with Crime No.354 of 2024 on the file of the 2nd respondent.

3.The appellant, who was arrested and remanded to judicial custody on 06.08.2024, for the offences punishable under Sections 49, 109, 118(1), 191(2), 206(b), 351(3) of BNS 2023 r/w Section 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST (POA) Amendment Act 2015, in Crime No.354 of 2024 on the file of the respondent police, seek appeal bail.

4.The case of the prosecution in brief:

The defacto complainant lodged a complaint stating that he belongs to the Scheduled Caste community. Due to the poverty one Kumaravel Pillai gave property measuring about 5.50 cents on the west to his grandfather to



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enjoy the property. It was kept as vacant. Taking advantage of the same, one Kannan encroached the property and fenced. After coming to their Village, the defacto complainant family came to know about the fencing and encroachment. They approached the Kannan to pay a sum of Rs.10,000/- for raising the plants. But, Kannan refused. Over that enmity on 04.08.2024, when they were in house one Mani, Jegan and Pithchiah and two others came to their house, abused them in filthy language by calling them using their caste name and one of the person caused assault with sword. They sustained injuries. When the neighbours gathered the accused person fled away from that place by making criminal intimidation. They were taken to the hospital. On the basis of the above said occurrence, the defacto complainant lodged the complaint and the same was registered by the respondent police.

5.The appellant was arrested and remanded to judicial custody. Seeking bail, he moved special Court. It was dismissed. Against which, this criminal appeal has been preferred.

6.Even though the notice was ordered to the defacto complainant, namely the victim, none appears. The learned Government Advocate (Crl. Side) would submit that the defacto complainant was informed about the



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filing of the appeal. So heard the learned counsel for the appellant as well as the learned Government Advocate (Crl. Side).

7.The learned counsel for the appellant submitted that so far as this appellant is concerned there is no specific overt act attributed. But, reading of the FIR shows that one person, who is able to be identified by the victim assaulted with sword. He suffered injury on the back. It was also seen that there was issue between the first accused Kannan and the defacto complainant over the piece of property lying on the west of their house. It is also seen that no other bad antecedents are reported against the appellant. Considering the above said circumstances, and there is no specific overt act is attributed against the appellant, this Court is inclined to allow this appeal and grant bail to the appellant with certain conditions.

8.Accordingly, the Criminal Appeal is allowed and the order dated 09.09.2024 made in Cr.M.P.No.3159 of 2024 on the file of the II Additional Sessions Judge (PCR), Tirunelveli, is hereby set aside. The appellant is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties, each for a like sum to the satisfaction of the learned II Additional Sessions Judge (PCR),



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Tirunelveli and on further condition that:

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[a] the appellant shall file an undertaking affidavit to the effect that he will not make any trouble to the defacto complainant in future;

[b] the appellant shall appear before the concerned court, daily at 10:30 a.m. until further orders;

[c] the appellant shall not tamper with evidence or witness either during investigation or trial;

[d] the appellant shall not abscond either during investigation or trial;

[e] On breach of any of the aforesaid conditions, the Trial Court is entitled to take appropriate action against the appellant in accordance with law, as if the conditions have been imposed and the appellant released on bail by the Trial Court itself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

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Index : Yes/No

Internet : Yes/No

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To

1.The II Additional Sessions Judge (PCR), Tirunelveli.

2.The Deputy Superintendent of Police,
Cheranmahadevi Sub Division,
Tirunelveli District.



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3.The Inspector of Police,
Munneerpallam Police Station,
Tirunelveli District.

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



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G.ILANGO VAN,J.

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