



CRL.A(MD).No.955 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated:18.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.A(MD)No.955 of 2024

1.Benit Clase

2.Bibin Jacob

... Appellants

Vs.

1. State Rep. By

The Inspector of Police,
Thuckalay Police Station,
Kanyakumari District.
(Crime No.433 of 2024)

2.Ramesh

... Respondents

(R2 is suo motu impleaded as per order of the
Court dated 08.11.2024, in Crl.A.(MD).No.955 of 2024)

PRAYER: Criminal Appeal filed under Section 14(A) (2) of the Schedule Castes and Tribes Prevention of Atrocities Act, 2015 as Amended by Act 1 of 2016, praying to call for the records pertaining to the Order dated 29.10.2024 made in Cr.M.P.No.3871 of 2024 on the file of the learned II Additional District Judge (PCR Court), Tirunelveli, and set aside the same and enlarge the appellant on bail in connection with Crime No.433 of 2024 on the file of the respondent.



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For Appellant : Mr.V.Sukumar

For Respondents : Mr.M.Sakthi Kumar,
Government Advocate(Crl.Side)
for R1
No appearance (for R2)

JUDGMENT

This appeal is filed to set aside the impugned order passed in Cr.M.P.No.3871 of 2024 by the learned II Additional District Judge (PCR Court), Tirunelveli, dated 29.10.2024 and enlarge the appellant on bail.

2.The appellants are A1 and A3, in Crime No.433 of 2024 on the file of the first respondent Police. He is said to have committed alleged offences under Section 103 of BNS and Section 3(2)(v) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 2015.

3.According to the prosecution,the defacto complainant's brother is deceased Mahesh. He was working as electrician and he was alcoholic. Therefore, his first marriage was dissolved and he entered into marriage with one Shobi. The deceased is said to have assaulted the said shobi under the influence of alcohol. Hence, she moved to Chennai on 19.07.2024. On 20.07.2024, at 10.30 p.m., the deceased went to his cousin's house namely,



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Sankar and informed about the quarrel that took place between the first appellant and himself and in the said quarrel, he assaulted the first appellant. Thereafter, the defacto complainant saw the appellants 1 and 2 coming on a bike. Subsequently, on 21.07.2024, he found the dead body of the deceased in the house of the deceased with knife injuries. Therefore, he made a complaint stating that the appellants and the other accused (A2) have murdered the deceased. The respondent Police registered the case under Sections 103 BNS Act and Section 3(2)(v) of SC/ST (POA) Act. The investigation officer arrested the first appellant on 26.07.2024 and second appellant on 23.07.2024 and continued the investigation by arresting A2. The appellant filed the bail petition in Crl.M.P.No.3871 of 2024 before the II Additional District Judge (PCR), Tirunelveli, and the same was dismissed. Aggrieved over the same, the appellant have filed this appeal.

4. According to the learned counsel appearing for the appellant, there is no incriminating material available on record to show their involvement in the above offence. Now, the investigation was almost over and final report also filed. The case was registered against them and they are falsely implicated in this case without any material. Hence, he seeks to allow this appeal.



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5.The learned Additional Public Prosecutor submitted that in this case the appellants are arraigned as A1 and A3 and also invoked the Act 14 against A2. The investigating agency collected materials to show their involvement in the occurrence. Therefore, he seeks to dismiss the appeal.

6.This Court directed the police officer to serve notice to the defacto complainant and the defacto complainant also received the summons. But, he did not appear either in person or through counsel. Hence, this Court perused the records and also the documents produced by the learned Additional Public prosecutor.

7.From the submission of the learned Additional Public Prosecutor and the learned counsel appearing for the appellant and from the record, even as per the allegation, the defacto complainant saw the dead body of the deceased with injuries. He was not an eye witness to the occurrence. In the said circumstances, considering the incarceration of the appellants from 23.07.2024 and 26.07.2024 and taking into consideration the completion of the investigation and as no case of communal tension was pleaded by the prosecution and there is no bad antecedent against the appellants except the one nuisance case registered against the first appellant, this Court is inclined to allow the Criminal Appeal.



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8. Accordingly, the Criminal Appeal is allowed and the impugned order dated 29.10.2024 made in Cr.M.P.No.3871 of 2024 on the file of the learned II Additional District Judge (PCR Court), Tirunelveli, is set aside. The appellants are ordered to 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, for a like sum to the satisfaction of the learned II Additional District Judge (PCR Court), Tirunelveli, and on further conditions that:

(a) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned II Additional District Judge (PCR Court), Tirunelveli, may obtain a copy of their valid identity card to ensure their identity.

(b) The appellants are directed to appear before the first respondent Police daily at 10.30 am, until further orders;

(c) the appellants shall not tamper with evidence or witnesses during trial.

(d) the appellants shall co-operate with the proceeding of Trial Court.

(e) On breach of any of the aforesaid conditions, the learned Trial Judge is entitled to take appropriate action against the appellant in accordance with law as if the conditions have been imposed and the appellants were released on bail by the learned Trial Judge himself



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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 abscond, a fresh FIR can be registered under Section 269 of the Bharatiya Nyaya Sanhita, 2023.

18.11.2024

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

To

- 1.The Superintendent of Prison,
Central Prison, Palayamkottai, Tirunelveli District.
2. The Learned II Additional District Judge (PCR Court),
Tirunelveli.
- 3.The Inspector of Police,
Thuckalay Police Station,
Kanyakumari District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
5. The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

vsg

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