



Crl.A(MD)No.987 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On	:	27.11.2024
Pronounced On		29.11.2024

CORAM

THE HONOURABLE MR.JUSTICE **K.K.RAMAKRISHNAN**

CRL.A.(MD)No.987 of 2024

Thangarasu

... Appellant

vs.

1.State of Tamilnadu rep by
The Deputy Superintendent of Police,
Jeeyapuram Sub Division,
Trichy District.

2.The Inspector of Police,
AWPS-Jeeyapuram Police Station,
Trichy District.
(Crime No.20 of 2024)

3.Karthika

... Respondents

PRAYER: Criminal Appeal filed under Section 14 A (2) of SC/ST Prevention of Atrocities Amendment Act, to call for the records relating to the impugned order passed in Crl.M.P.No.5766 of 2024 dated 29.10.2024, on the file of the learned I Additional District



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and Sessions Judge (PCR), Trichy District and set aside the same as illegal and arbitrary and enlarge the appellant/accused No.1 in Crime No.20 of 2024 on the file of the second respondent on bail by allowing the appeal.

For Appellant :Mr.K.Prabhu for
:Mr.K.Jeyamohan

For Respondent :Mr.M.Sakthi Kumar
Government Advocate (Crl.Side)
for R1 to R2

: No appearance for R3

JUDGMENT

This Criminal Appeal has been filed to set aside the impugned order passed in Crl.M.P.No.5766 of 2024 dated 29.10.2024, on the file of the I Additional District and Sessions Court (PCR Act), Trichy District, and enlarge the appellant on bail in connection with Crime No.20 of 2024, on the file of the second respondent police.



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2.1. According to the prosecution, the appellant is said to have committed the offences under Sections 108, 56, 351(2) of BNS and under Sections 417, 376 of IPC and Sections 3(1)(w)(i), 3(1)(w)(ii), 3(1)(s) of SC/ST (POA) Act, 1989.

2.2. According to the prosecution, the appellant and the *defacto* complainant had love affair for the past two years. During the said period, upon making false promise, the appellant is alleged to have brought the *defacto* complainant to Kodaikanal and Ooty and they had sexual intercourse on several occasions. Thereafter, the appellant refused to marry the *defacto* complainant. On 13.07.2024, the *defacto* complainant had requested the accused to marry her, but the appellant refused it and abused her caste name. Therefore, she consumed poisonous substance and took treatment in Trichy Government Hospital. Thereafter, the *defacto* complainant has given the complaint to the second respondent. The second respondent Police registered a case in Crime No.20 of 2024 against the appellant, for the alleged offences punishable



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under Sections 108 r/w 56, 351(2) of BNS and under Sections 417, 376 of IPC and Sections 3(1)(w)(i), 3(1)(w)(ii), 3(1)(s) of SC/ST (POA) Act, 1989. Thereafter, the appellant was arrested on 18.09.2024. Hence, he filed a petition for bail in Cr.M.P.No.5766 of 2024 and the same was dismissed by the I Additional District & Sessions Court (PCR Cases), Tiruchirappalli, on 29.10.2024. Challenging the same, the appellant has preferred this Criminal appeal.

3. The learned counsel for the appellant submitted that even as per the prosecution case, they loved each other and went to Kodaikanal and Ooty and had sexual intercourse. The appellant has been arrested and confined in prison from 18.09.2024. The investigation is almost completed. Hence, he seeks for bail.

4. The learned Additional Public Prosecutor submitted that the appellant had sexual intercourse with the *defacto* complainant upon making false promise of marrying her. It is true that the



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investigation is almost completed but, the act of the appellant that he had sexual intercourse upon making the false promise of marrying her and then refusing to marry forced the *defacto* complainant to consume poisonous substance is a strong circumstance to dismiss the bail petition.

5. Even though notice was served upon the *defacto* complainant, he has not appeared before this Court, either through her counsel or in person.

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

7. Allegations in the FIR is that from 2023 onwards, the *defacto* complainant and the appellant were in love. The *defacto* complainant is aged about 25 years. Even she went along with the appellant in the month of July 2023 to Kodaikanal and they had



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had sexual intercourse. Further, on 07.10.2023 also both went to Ooty and had sexual intercourse. Thereafter, he refused to marry her. On 01.09.2024, she consumed some poisonous substance. Even after that the appellant refused to marry her and his parents and relatives also scolded her. Thereafter, she made the complaint to the respondent police. The respondent police registered the case for the offences punishable under Sections 108 r/w 56, 351(2) of BNS and under Sections 417, 376 of IPC and Sections 391)(w)(i), 3(1)(w)(ii), 3(1)(s) of SC/ST (POA) Act, 1989.

8. In view of the above specific circumstances, the submission of the learned counsel for the appellant that there was consensual relationship between the appellant and the respondent and no offence either under Sections 417 or 376 of IPC is made out requires adjudication during the trial. Therefore, this Court considering the period of incarceration and the above facts of the case of consensual relationship and the investigation having been almost completed and this Court is inclined to allow the Criminal



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Appeal by setting aside the order, dated 29.10.2024 made in Cr.M.P.No.5766 of 2024 on the file of the I Additional District and Sessions Court (PCR Act), Trichy.

9. Accordingly, the Criminal Appeal is allowed and the order dated 29.10.2024 made in Cr.M.P.No.5766 of 2024, on the file of the I Additional District and Sessions Court (PCR Act), Trichy, is set aside. The appellant is ordered to be released on bail on executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the I Additional District and Sessions Court (PCR Act), Trichy, and on further conditions that:

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

(b) the appellant shall stay at Chennai appear before the Principal District Court, Chennai, daily at 10.30 am, until further



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orders.

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(c) the appellant shall not tamper with evidence or witness 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 appellants in accordance with law as if the conditions have been imposed and the appellant released on bail by the learned Magistrate/Trial Judge himself 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 absconds, a fresh FIR can be registered under Section 269 BNS, 2023.

29.11.2024

Index :Yes / No

Internet :Yes / No

NCC :Yes / No

sbm



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To

- 1.The I Additional District and Sessions Court,
PCR Cases, Trichy.
2. The Deputy Superintendent of Police,
Jeeyapuram Sub Division,
Trichy District.
- 3.The Inspector of Police,
AWPS-Jeeyapuram Police Station,
Trichy District.
- 4.The Superintendent of Prison,
Central Prionsn,
Tiruchirapalli.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 6.The Section Officer,
Record Section (Criminal)
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

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