



CRL.A(MD).No. 1120 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATE : 08.01.2024

CORAM

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

CRL.A(MD).No.1120 of 2023

Sabarinath : Appellant/Accused No.2

Vs.

1. The State Rep by,
The Deputy Superintendent of Police,
Valliyoor Sub Division,
Radhapuram Police Station,
Tirunelveli.
(Crime No.180 of 2018)

: 1st Respondent/ Investigation
Officer

2.Murugan

: 2nd Respondent/ Defacto
Complainant

Prayer : This Criminal Appeal is filed under Section 14(A)(2) of the Schedule Castes and Tribes Prevention of Atrocities Act, 2015 (Amended by Act 1 of 2016), to call for the records pertaining to the order passed in Cr.M.P.No.4683 of 2023 on the file of the II Additional Sessions Court, Tirunelveli dated 05.12.2023 and set aside the same as illegal and enlarge the appellant on bail by allowing the appeal.

For Appellant : Mr.K.Sivabalan



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For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor for R1

JUDGMENT

This Criminal Appeal has been filed to call for the records relating to the order dated 05.12.2023 made in Cr.M.P.No.4683 of 2023 on the file of the II Additional Sessions Court, Tirunelveli, and to set aside the same.

2. The case of the prosecution is that the appellant, who has been arrayed as accused No.2 along with other accused have scolded the second respondent/defacto complainant with filthy language and abused him with the name of his caste. The appellant along with other accused has threatened the complainant with dire consequences and attacked him. He sustained injuries in the said attack, hence the complaint.

3. Learned counsel for the appellant would submit that the appellant has been falsely implicated in this case and he is innocent and has not committed any offence as alleged by the prosecution. He would further submit that the appellant is the only breadwinner of his family and he is in custody from 10.11.2023 onwards.



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4. The appellant moved bail application before the II Additional Sessions Court, Tirunelveli, in Cr.M.P.No.4683 of 2023 and the same was dismissed on 05.12.2022, on the ground that the appellant may abscond again due to his irregularity in attending the Court.

5. Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor appearing for the first respondent submitted that the occurrence took place in the year 2018 and the appellant was absent from 14.03.2022 and hence, NBW was issued and the same was executed against him on 10.11.2023 and now he is confined in prison from 10.11.2023.

6. Heard the learned counsel on either side and perused the materials available on record.

7. Considering the above facts and circumstances of the case and also the duration of his incarceration i.e., from 10.11.2022, this Court is inclined to allow the Criminal Appeal, by setting aside the order dated 05.12.2023 made in Cr.M.P.No.4683 of 2023 passed by the learned II Additional Sessions Judge, Tirunelveli.



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8. Accordingly, the Criminal Appeal is allowed and the order dated 05.12.2023 made in Cr.M.P.No.4683 of 2023 on the file of the II Additional Sessions Court, Tirunelveli, is set aside. The appellant is ordered to be released on bail, subject to the following conditions:

[a] The appellant shall execute 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 learned II Additional Sessions Judge, Tirunelveli;

[b] The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

[c] The petitioner shall appear and sign before the learned II Additional Sessions Judge, Tirunelveli, on the first working day of every English calender month at 10.30 a.m., until further orders;



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[d] In case, if the petitioner is unable to appear before the Court on the first working day of a month, he shall appear on the next working day;

[e] The appellant shall not tamper with evidence or witness either during investigation or trial;

[f] The appellant shall cooperate with the investigation;

[g] On breach of any of the aforesaid conditions, the learned Sessions Judge/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 learned Sessions Judge/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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[h] If the accused thereafter absconds, a fresh FIR can be

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

PKN

Note:

- 1. Registry is directed to forthwith upload this order in the official website of this Court.**
2. All concerned to act on this order being uploaded in official website of this Court without insisting on certified copies. To be noted, this order when uploaded in official website of this Court will be watermarked and will also have a QR code.



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To

- 1.The II Additional Sessions Court,
Tirunelveli.
- 2.The Deputy Superintendent of Police,
Valliyoore Sub Division,
Radhapuram Police Station,
Tirunelveli.
- 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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VIVEK KUMAR SINGH, J.

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