



CRL.A(MD).No. 1130 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATE : 10.01.2024

CORAM

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

CRL.A(MD).No.1130 of 2023

Esakkipandi : Appellant/Accused No.2

Vs.

1. The Deputy Superintendent of Police,
Nagercoil Sub Division,
Kanyakumari District.

2. The Inspector of Police,
Aralvaimozhi Police Station,
Kanyakumari District.
(Crime No.242 of 2023)

: Respondents 1 & 2/
Complainants

3.Mariyappan

: 3rd 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.5082 of 2023 on the file of the II Additional Sessions Court, Tirunelveli dated 21.12.2023 and set aside the same as illegal and enlarge the appellant on bail by allowing the appeal.



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

JUDGMENT

This Criminal Appeal has been filed to call for the records challenging the order passed by the learned II Additional Sessions Judge, Tirunelveli, in Cr.M.P.No.5082 of 2023 dated 21.12.2023, the present appeal has been preferred by the appellant.

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 third respondent/defacto complainant with filthy language and abused him with the name of his caste. The appellant along with the other accused has also threatened the complainant with dire consequences and attacked him to withdraw the criminal case filed against the appellant. Hence the complaint.

3. Pursuant to the complaint of the defacto complainant, the second respondent police has registered a case against the appellant and another



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under Sections 294(b), 324, 506(2) and 323 of the Indian Penal Code, 1860 (Act No.45 of 1860) read with Sections 3(1)(r), 3(1)(s), 3(2)(va) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Act No.33 of 1989).

4. Learned counsel for the appellant submitted that the appellant is innocent and has not committed any offences as alleged by the prosecution and due to wordy quarrel, a false case has been foisted against him and the appellant is in judicial custody from 05.12.2023 and if the appellant is released on bail, he is ready to abide any condition imposed by this Court. Learned counsel further submitted that the co-accused in this case has already been granted bail by the learned II Additional Sessions Judge, Tirunelveli by order dated 21.12.2023 made in Cr.M.P.No.5063 of 2023 and he has produced the copy of the same before this Court and prayed for bail.

6. Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor appearing for the first respondent submitted that the appellant was arrested on 05.12.2023. Thereafter, the appellant moved bail application before the II Additional Sessions Court, Tirunelveli, in Cr.M.P.No.5082 of 2023 and



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the same was dismissed on 21.12.2023, on the ground that the appellant may tamper the witnesses and may again cause danger to the defacto complainant and thereby, objected to release the appellant on bail.

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

8. Considering the above facts and circumstances of the case and also taking note that the co-accused has already been granted bail, this Court is inclined to allow the Criminal Appeal, by setting aside the order dated 21.12.2023 made in Cr.M.P.No.5082 of 2023 passed by the learned II Additional Sessions Judge, Tirunelveli.

9. Accordingly, the Criminal Appeal is allowed and the order dated 21.12.2023 made in Cr.M.P.No.5082 of 2023 on the file of the II Additional Sessions Court, Tirunelveli, is set aside. However, 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;



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[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;

[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;



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[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

[h] 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

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



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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.

To

1. The II Additional Sessions Court,
Tirunelveli.
2. The Deputy Superintendent of Police,
Nagercoil Sub Division,
Kanyakumari District.
3. The Inspector of Police,
Aralvaimozhi 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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VIVEK KUMAR SINGH, J.

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