



Crl.A.No.425 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON : 23.04.2025

PRONOUNCED ON : 16.09.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.425 of 2022

Balan

... Appellant

Vs.

State rep. by:

1.The Deputy Superintendent of Police,  
L & O Salem South Range,  
Salem Corporation,  
Kondalampatti Police Station,  
Salem District.  
(Crime No.383 of 2017).

2.Mariammal

... Respondents

PRAYER: Criminal Appeal is filed under Section 374(2) of Code of Criminal Procedure, to set aside the conviction of the appellant in Special Sessions Case No.27 of 2018 on the file of the learned Principal Sessions Judge, Salem (Special Court of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act, 1989) dated 31.03.2022 by allowing this appeal.



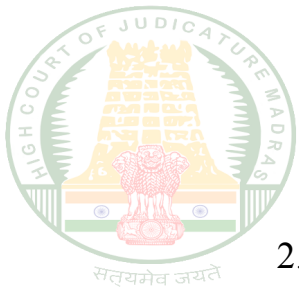
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For Appellant : Mr.T.Muruganantham  
For R1 : Mr.L.Baskaran,  
Government Advocate (Crl. Side)  
For R2 : Ms.C.B.Geeth Sanchitha,  
Legal Aid Counsel

### JUDGMENT

The appellant was convicted by judgment dated 31.03.2022 in Special S.C.No.27 of 2018 by the learned Principal Sessions Judge, Salem (Special Judge for Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989) and sentenced to undergo seven years Rigorous Imprisonment and to pay a fine of Rs.1,000/- in default to undergo nineteen months Rigorous Imprisonment for offence under Section 370 IPC and further the appellant was convicted and sentenced to undergo five years Rigorous Imprisonment and to pay a fine of Rs.1,000/- in default to undergo fifteen months Rigorous Imprisonment for offence under Section 3(1)(vi) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The appellant acquitted from the charges under Sections 294(b) & 506(ii) of IPC and Sections 3(1)(x) and 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amended Act, 2016. Challenging the conviction and sentence, this criminal appeal is filed.



2. In this case one of the offence is Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, hence, this Court on 10.02.2025 ordered notice to the 2<sup>nd</sup> respondent/defacto complainant/PW1 through the jurisdictional Police to inform the pendency of the present appeal. Notice served to the 2<sup>nd</sup> respondent/defacto complainant through the jurisdictional Police and she gave a letter stating that she is not in a position to engage an Advocate and further she is suffering from ailments. Considering the same, this Court by order dated 26.02.2025 appointed Ms.C.B.Geeth Sanchitha as Legal Aid Counsel for the 2<sup>nd</sup> respondent/defacto complainant.

3. Case of the prosecution is that the defacto complainant/PW1, mother of the victim boy/PW2 lodged a complaint on 07.08.2017 to the 1<sup>st</sup> respondent Police stating that she was residing with her husband and her minor son/PW2 at Housing Board Colony, Salathampatti, Salem and they belong to Scheduled Caste community. The defacto complainant/PW1 and her husband took a loan of Rs.20,000/- at the rate of 10% interest from the appellant eight months prior to the occurrence and the monthly interest was Rs.2,000/-. For four months, the defacto complainant/PW1 was able to pay the interest, thereafter, defaulted in payment of interest. The appellant who gave loan, came to the house of the



defacto complainant/PW1, abused them using filthy language, forcibly took her minor son/PW2 informing that he will be working in his Chennai Mess run by the appellant as bonded labour till the loan amount is paid back. After two months, the defacto complainant/PW1 and her husband went to Chennai Mess and pleaded with the appellant to relieve their minor son/PW2 from forced labour but the appellant refused. Thereafter, a complaint lodged to the Revenue Divisional Officer, Salem for bonded labour. On coming to know about the same, the appellant beaten and chased out PW2 from the bonded labour. Annoyed over the complaint, the appellant, his wife and son came to the house of defacto complainant/PW1, abused them by calling their caste name and threatened that they will be done away and forced the defacto complainant/PW1 to withdraw the complaint. Fearing for life, the complaint (Ex.P1) lodged to the respondent Police by the defacto complainant/PW1. PW11/Sub Inspector of Police received the complaint (Ex.P1), registered FIR (Ex.P6) in Crime No.383 of 2017 for offence under Section 370 IPC, Section 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 and Sections 3(1)(vi) & 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and submitted the complaint (Ex.P1) and FIR (Ex.P6) to the learned Judicial Magistrate No.V, Salem.



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4. On the orders of the Deputy Commissioner of Police, Salem, the 1<sup>st</sup> respondent was appointed as Investigating Officer in this case. PW14/Investigating Officer took up investigation on 08.08.2017, visited the scene of occurrence, prepared Observation Mahazar (Ex.P14), Rough Sketch (Ex.P15), enquired the witnesses present in the scene of occurrence, recorded their statements, thereafter gone to the house of the defacto complainant/PW1, recorded the statements of the defacto complainant/PW1, her minor son/PW2, her husband and others. Since the defacto complainant/PW1 and her husband were abused by calling of caste name, PW14/Investigating Officer sent requisition letters to Tahsildars/PW12 & PW13 seeking community certificates of the defacto complainant/PW1, her minor son/PW2, her husband and the appellant. In the meanwhile, the appellant absconded and from 11.09.2017, the appellant arrested near Sivathapuram Bus Stand, his confession statement recorded and produced for remand. Finding that there is no material or evidence against the appellant's wife and son, they were dropped from the case retaining the appellant alone. On collection of evidence and materials, the Investigating Officer/PW14 altered Sections to 370 IPC r/w 3(1)(r), 3(1)(s), 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2016 and filed charge sheet



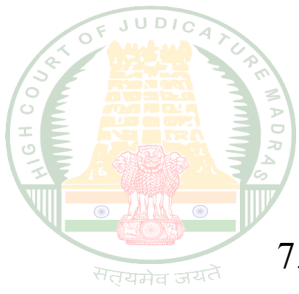
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against the appellant before the trial Court.

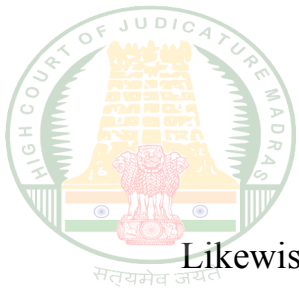
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5. During trial, on the side of the prosecution, PW1 to PW14 examined and Exs.P1 to P17. On the side of the defence, no witness examined and no document marked. On conclusion of trial, the trial Court convicted the appellant as stated above.

6. The learned counsel for the appellant submitted that one Perumal who belongs to Viduthalai Siruthai Katchi (VCK) came and demanded donation for celebrating the birthday of party leader, for which, the appellant resisted and paid only lesser amount. The said Perumal who is an Office Bearer of the said party is known to the appellant and Perumal only referred PW2 for employment to the appellant's hotel. The defacto complainant/PW1's husband also belongs to the same political party, hence, to evade the repayment of loan, the defacto complainant and her family in conspiracy with Perumal, projected a false complaint against the appellant. In this case, except the defacto complainant/PW1, her minor son/PW2 and official witnesses, no other private witnesses supported the case of the prosecution.



7.The learned counsel further submitted that there was no abduction or forcible labour by any means, and the appellant never compelled PW2 to any bonded labour. Even in the complaint (Ex.P1), the defacto complainant/PW1 states that only abusive words used against them when the loan was asked to be repaid by the appellant. Further, on 28.06.2017, it was the said Perumal, who came to Chennai Mess of the appellant where he saw PW2 employed as Supplier and Table Cleaner, on enquiry, Perumal came to know that PW2 was forcibly bonded for non-repayment of loan by his father. In this case, admittedly, the said Perumal is not a witness. The Investigating Officer/PW14 admits that it is only Perumal who took PW2 for employment in the appellant's mess, which is the complaint given to the Revenue Divisional Officer, Salem. The evidence of the defacto complainant/PW1 confirms that she and her husband used to visit their minor son/PW2 in the appellant's mess and they plead with the appellant to show some mercy and relieve their son/PW2 from the work. In such circumstances, it cannot be said that PW2 was kept as a bonded labour, hence, PW2 was free and had all access. In this case, the other witnesses namely PW3 to PW8, nearby shop owners to the Chennai Mess not supported the case of the prosecution and there is no material to prove that PW2 was employed in Chennai Mess as bonded labour.



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Likewise there is no material to show that there was any loan transaction and charging of exorbitant interest by the appellant. Hence, the conviction and sentence for offence under Section 370 IPC is not sustainable.

8.He further submitted that the defacto complainant/PW1 in her complaint (Ex.P1) stated that she belongs to Scheduled Caste community. PW12, Tahsildar, Salem West confirms that the defacto complainant belongs to Hindu-Vishwakarma community (Backward Class) and produced the community certificate (Ex.P8). The appellant said to have abused by caste name against the defacto complainant/PW1 and her husband Sasikumar. Since the defacto complainant/PW1 belongs to Hindu-Vishwakarma community (Backward Class), she would not come under the purview of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the defacto complainant/PW1's husband Sasikumar is no more and not examined as witness, hence, there is no offence of using of abusive words calling the caste name. The only other witness is PW2 who states that there was heated arguments between the defacto complainant/PW1 and appellant with regard to repayment of loan amount and also taking back PW2 and the abuse is only directed against the defacto complainant/PW1 and nothing



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specific against PW2. Further, the abuse of calling the caste name not took place in public or public view, hence, the offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 will not get attracted. The trial Court without considering these aspects had merely gone by the evidence of PW1 that as though she was abused by calling caste name and convicted the appellant. Further, the trial Court failed to consider that the community certificate (Ex.P8) proves PW1 does not belong to Scheduled Caste community and she belongs to Hindu-Vishwakarma community (Backward Class) and she cannot take umbrage under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Hence, the conviction and sentence for offence under Section 3(1)(vi) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is not sustainable.

9.He further submitted that PW9 and PW10 are Village Administrative Officer and Village Assistant, they were examined to show the arrest of the appellant on 11.09.2017. Since there is no recovery from the confession, the evidence PW9 & PW10 cannot be acted upon. The other witnesses Tahsildars (PW12 & PW13) examined for production of community certificates (Exs.P8,



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P9, P11 & P12). The Investigating Officer/PW14 confirms that Perumal is the person who is the man behind the entire issue, who lodged a complaint to the Revenue Divisional Officer, Salem, who held Dharna before the Police Station and Collectorate, thereby, forced the Police to take some action eventhough it is against the truth to ease out the situation. The trial Court ought to have considered all these aspects and acquitted the appellant. On the other relying upon the evidence of the defacto complainant/PW1, PW2 and the confession statement is not proper.

10.The learned counsel further submitted that the appellant without prejudice to his rights and contention and on humanitarian consideration, had paid a sum of Rs.2,00,000/- (Rupees two lakhs only) in cash to the defacto complainant/PW1. In view of the above, he prayed for acquittal.

11.The learned Government Advocate (Crl. Side) appearing for the 1<sup>st</sup> respondent Police submitted that the defacto complainant/PW1 is a Hindu-Viswakarma community and she was married to Sasikumar, who belongs to Scheduled Caste community. The defacto complainant/PW1 borrowed a sum of Rs.20,000/- from the appellant @ 10% interest before 8 months and paid



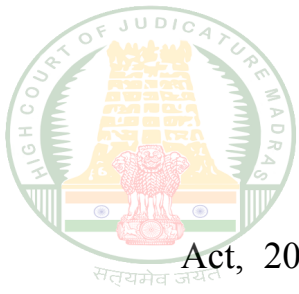
Rs.2,000/- as interest monthly. The defacto complainant was not able to pay the interest for the past 4 months. The appellant came to the defacto complainant's house, picked up a quarrel and took her minor son/PW2 aged about 12 years to work in Chennai Mess, which was run by the appellant until repayment of the loan amount. The minor boy/PW2 was working in the mess to clean the table and pour water. PW2 worked in the mess of the appellant for 2 months and the appellant extracted work from her son by treating him as bonded labour. Though the defacto complainant/PW1 along with her husband approached the appellant and requested to handover their son/PW2, the appellant, his son and wife came to PW1's house and abused them using filthy language and threatened with dire consequences. Fearing for life, the defacto complainant/PW1 lodged a complaint (Ex.P1) to the 1<sup>st</sup> respondent Police.

12.He further submitted that on receipt of complaint (Ex.P1), PW11 registered FIR (Ex.P6) and handed over the same to the higher officials. Thereafter, on the order of the Deputy Commissioner of Police, the Assistant Commissioner of Police/PW14 took up investigation, visited the scene of crime, prepared Observation Mahazar (Ex.P14), Rough Sketch (Ex.P15),



examined the neighbouring witnesses, recorded their statements, gave requisitions to Tahsildar, Salem West, obtained the community certificates (Exs.P8, P9, P11 & P12) of the defacto complainant/PW1, her husband, her son/PW2 and the appellant.

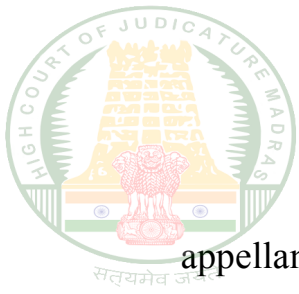
13.It is further submitted that the Investigating Officer/PW14 confirmed that the appellant alone employed PW2 for work, abused the defacto complainant and her husband by calling their caste name. Thereafter, PW14 arrested the appellant on 11.09.2017 and remanded to judicial custody. Further, when the defacto complainant/PW1 and her husband went to Chennai mess of the appellant to get back PW2, the appellant scolded them by using caste name. Hence, PW14 altered the Sections and sent the Alteration Report (Ex.P7) to the Court on 17.03.2018. He further submitted that since the appellant's wife and son were found not involved in this case, their names removed and deletion report sent to the Court. On collection of evidence and materials, PW14 filed charge sheet before the trial Court. The trial Court on conclusion of trial, had acquitted the appellant from the charges under Sections 294(b) & 506(ii) of IPC and Sections 3(1)(x) and 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amended



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Act, 2016 but convicted for offence under Section 370 IPC and Section 3(1)(vi) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. In view of the above, the trial Court by a well-reasoned judgment convicted the appellant which needs no interference, hence, prayed for dismissal of the appeal.

14.The Legal Aid Counsel for the 2<sup>nd</sup> respondent/defacto complainant vehemently opposed the contention of the appellant, reiterated the prosecution case and submitted that despite knowing well that the defacto complainant/PW1 and her family belongs to Scheduled Caste community, the appellant for non-repayment of the loan had abused them by calling caste name and also threatened them with dire consequences. Not stopping with that, the appellant having knowledge about the community of PW1 and her family, compelled PW2 and against his will brought PW2 to his mess and exploited work forcing him to clean the tables. The defacto complainant/PW1 and her son/PW2 clearly stated in their evidence that the appellant came to the house and abused them using filthy language for non-repayment of the loan and also abused using their caste name. PW1 in her evidence stated that she and her husband used to go and meet their son/PW2 in Chennai Mess of the



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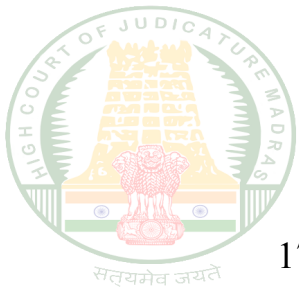
appellant and also plead with the appellant to relieve their son/PW2 from bonded labour. PW2 in his evidence corroborated the same. To confirm the community of the defacto complainant/PW1, her husband and her son/PW2, the Tahsildars (PW12 & PW13) examined and they produced the community certificates (Exs.P8, P9, P11 & P12). Hence, the judgment of the trial Court is a well reasoned one and the appeal to be dismissed.

15.This Court considered the rival submissions and perused the materials available on record.

16.In the complaint (Ex.P1), there is specific mention about one Perumal of Viduthalai Siruthai Katchi (VCK), a political party. The Investigating Officer/PW14 admits that he neither examined the said Perumal nor listed him as witness in this case. The defacto complainant/PW1's case is that on 28.06.2017, the said Perumal had gone to Chennai Mes and found the defacto complainant's son/PW2 forced to work as Supplier and Table Cleaner, thereafter, only the defacto complainant/PW1 had gone to Chennai Mess and attempted to rescue her son/PW2, at that time, in the mess, she was abused, later a complaint was given to the Revenue Divisional Officer, Salem for



bonded labour. On coming to know about the same, PW2 chased out from the Chennai Mess and he was threatened not to disclose the forcible employment to anyone. Followed by, the appellant, his wife and son went to the defacto complainant/PW1's house, threatened the defacto complainant/PW1, her husband and son/PW2 and used prohibitory words calling caste name. In such circumstances, the said Perumal will be the right person to draw the link of forcible employment by the appellant and the subsequent development of using caste name and threat. In this case, the Investigating Officer/PW14 admits that due to Dharna held by Perumal who belongs to a Political party in front of the Police Station and before the Collectorate, action forced to be taken. The explanation of the appellant is that there was demand of donation by Perumal for celebration of birthday for his political party leader which was resisted and lesser amount only given, hence, there was some animosity between Perumal and appellant. Since Perumal being a friend of the defacto complainant/PW1's husband who also belongs to the same political party, a false case projected against the appellant lends credence since the Investigating Officer/PW14 admits non examination of Perumal despite reference is made in the complaint (Ex.P1). Hence, non examination of the said Perumal is fatal to the prosecution case.



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17. In this case, the defacto complainant/PW1 belongs to Hindu-Vishwakarma community (Backward Class). Suppressing the same, the defacto complainant/PW1 lodged the complaint (Ex.P1) to the 1<sup>st</sup> respondent Police projecting as though she belongs to Scheduled Caste community. The defacto complainant/PW1 married one Sasikumar who belongs to Scheduled Caste community which is proved by the evidence of PW13/Tahsildar who produced the community certificate of Sasikumar (Ex.P11) and also produced the community of PW2 (Ex.P12). Thus, it is confirmed that PW2 belongs to Scheduled Caste community and the defacto complainant/PW1 belongs to Hindu-Vishwakarma community (Backward Class). Hence, the defacto complainant/PW1 cannot take a shield of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. PW2 does not state that uttering of abusive words by the appellant was made in public or in public place. ***Hence, the conviction and sentence for offence 3(1)(vi) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is not sustainable and the same are set aside.***

18. As regards the conviction and sentence for offence under Section 370 IPC is concerned, on the facts of the case, it cannot be said that PW2 was



abducted using force or coercion and he was exploited. PW1 admits that she and her husband used to go to Chennai Mess of the appellant, meet her son/PW2, requested appellant to give some more time to repay the loan and to send back her son. Even in the complaint (Ex.P1), the defacto complainant/PW1 stated about the loan transaction with the appellant and the appellant forcibly taken her son/PW2 to work in his mess for non repayment of the loan. Added to it, PW2 in his evidence states that when he and his parents were at home, the appellant came there and asked PW2's parents to repay the loan amount, since PW1 requested two months time for repayment, the appellant took PW2 forcibly to work in his mess. PW2 further confirms that on 28.06.2017, his mother/PW1 came to the Chennai Mess run by the appellant and pleaded with the appellant to send back PW2 but the appellant refused and scolded the defacto complainant. Thus, the evidence of PW1 & PW2 are corroborated the complaint (Ex.P1). In such circumstances, it can be said that PW2 was unlawfully compelled to do labour work against the will of PW2. This would attract Section 374 IPC and not 370 IPC.

19.In view of the above and the appellant without prejudice to his rights and contention and on humanitarian consideration, paid a sum of



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Rs.2,00,000/- (Rupees two lakhs only) to the defacto complainant/PW1, **this**

***Court modifies the conviction of the appellant for offence under Section 370 IPC to 374 IPC and also modifies the sentence to period already undergone by the appellant.***

20.This Court places its appreciation to the Legal Aid Counsel for thorough preparation and vehemently put for the case of the defacto complainant and victim. The Legal Services Authority is directed to pay the learned counsel Ms.Geeth Sanchitha her entitled remuneration.

21.In the result, this Criminal Appeal is Partly-Allowed.

16.09.2025

Speaking order/Non-speaking order

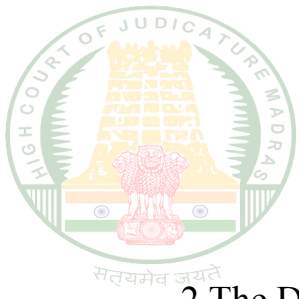
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To

1.The Principal Sessions Judge,  
Salem. (Special Judge for Scheduled Castes and Scheduled Tribes  
(Prevention of Atrocities) Act, 1989).



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2.The Deputy Superintendent of Police,  
L & O Salem South Range,  
Salem Corporation,  
Kondalampatti Police Station,  
Salem District.

3.The Legal Services Authority,  
Madras High Court.

4.The Public Prosecutor,  
Madras High Court.



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M.NIRMAL KUMAR, J.

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PRE-DELIVERY JUDGMENT IN  
CrI.A.No.425 of 2022

16.09.2025