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Crl.A.No.1060 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.10.2024

PRONOUNCED ON : 31.01.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.A.No.1060 of 2024

Hariprasath,

... Appellant / Accused - 1

Vs.

1.The Assistant Commissioner,
Office of the Assistant Commissioner,
Chennai District.

2.State by Inspector of Police,
All Women Police Station,
Virugambakkam, Koyambedu,
Chennai District.
(Crime No.22 of 2024).

3.Senthamizharasi

... Respondents / Complainant

PRAYER: Criminal Appeal filed under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, to set aside the order passed in Crl.M.P.No.21553 of 2024 on 09.08.2024 by the Special Judge at Chennai, Under SC & ST (Prevention of Atrocities) Act, Principal Sessions Court, Chennai and to enlarge the appellant on bail.

For Appellant : Mr.S.Arivazhagan

For R1 & R2 : Mr.R.Vinothraja

Government Advocate (Crl. Side)

For R3 : Mr.E.V.Chandru



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JUDGMENT

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The Appellant / A1 filed the present Appeal praying to set aside the order dated 09.08.2024, passed in Crl.M.P.No.21553 of 2024 by the learned Special Judge at Chennai, Under SC & ST (Prevention of Atrocities) Act, Principal Sessions Court, Chennai and to enlarge the appellant on bail.

2. Mr.S.Arivazhagan, the learned counsel appearing for the Appellant would submit that the appellant was arrested by the 2nd Respondent Police on 26.07.2024, for offence under Sections 498(A) and 406 of IPC., and Sections 3(1)(s) and 3(1)(z) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, in Crime No.22 of 2024. To enlarge on bail, the appellant filed bail petition in Crl.M.P.No.21553 of 2024 before the learned Special Judge/Principal Sessions Judge, Court of the Special Judge at Chennai under SC & ST (Prevention of Atrocities) Act and the same was dismissed vide impugned order, dated 09.08.2024. Against which, the present Appeal.

3. Earlier, when the matter is taken up for hearing, this Court on 27.08.2024 had passed the following order:



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"The learned counsel for the victim girl filed typed set which shows the plight of victim girl and submitted that the victim girl hails from a marginalized community. The victim girl is an Engineering graduate completed Electronic Communication Engineering in Annamalai University. The victim girl came in contact with the appellant through Facebook, thereafter, on his promise that he would search a good job in Chennai, she came from her native to Chennai. In Chennai, the appellant befriended with the victim girl and also had physical contact. In the guise of marriage, invitation printed and the marriage also registered. It was not a proper marriage and only a cover up for exploitation. The jewels of 15 sovereigns, cash of Rs.4,00,000/- and certificates of the victim girl retained by the appellant. Earlier, the victim girl lodged a complaint, but no action taken, hence she lodged a complaint to the National Commission for Scheduled Castes and Scheduled Tribes and Tamil Nadu Women Commission. After the communication from the National Commission for Scheduled Castes and Scheduled Tribes to the Commissioner of Police, some movement was there, but that too, was not immediate. The victim girl had to approach the Commissioner of Police on several occasions on short intervals. Finally, FIR in Crime No.22 of



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2024 registered as though it was a matrimonial dispute for offence under Sections 498(A) and 406 IPC and Sections 3(1)(s) and 3(1)(z) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 r/w Section 67 of the Information Technology Act, 2000.

2.The learned counsel further submitted that the victim girl produced the Muthoot Finance bills to show pledging of jewels immediately after three days of registration of the marriage and on short intervals. Whenever the victim girl approached the appellant's parents and family members for return of jewels and certificates, she was chased out, threatened and harassed. He further submitted that, as per Rule 7 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, it is the endeavour of the State Government to appoint a person in the cadre of Deputy Superintendent of Police after taking into account of his past experience, sense of ability and justice to perceive the implications of the case, in the present case, the same was not followed. After registration of FIR, charge sheet to be filed within a period of sixty days and after filing of charge sheet, the Special Court to complete the trial within a period of two months, as per Section 14(2) of the Act.



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3. The learned Additional Public Prosecutor appearing for the respondents 1 and 2 seeks small accommodation to report with regard to the status of the case, action taken against the other named persons in the FIR, steps taken to recover the jewels and certificates of the victim girl.

4. The learned counsel for the appellant submitted that it is a proper marriage which was conducted between the appellant and victim girl on the concurrence of both family members. Now the victim girl projected as though it is an harassment and discrimination under the Act. As regards the certificates, the learned counsel submits that if it is available with the appellant, he would produce the same on the next hearing date. The pledging of jewels was by the appellant and the victim girl jointly for the family use. As regards the posting in the social media viz., Telegram and Facebook and with regard to allegation of his relationship with other girls are all false.

5. Post the matter on 03.09.2024 for further arguments."



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3. In continuation and conjunction to the above order, dated 27.08.2024, this Court on 03.09.2024, passed the following order:-

4. Today, Mr.K.Karunakaran, Assistant Commissioner of Police, Virugambakkam, Chennai and the victim girl/3rd respondent appeared before this Court.

5.The victim girl/3rd respondent submitted that the appellant's mother and sister approached her and assured that she would be treated properly and felt sorry for her present status. They also informed that they met the appellant in prison who is repenting for his action and willing to take the victim girl back. Now, the victim girl submits that she is also willing to join the appellant.

6.In view of the above, this Court finds that issue of lost of certificates, pledging of jewels and other disputes between the victim girl and appellant and his family members can be sorted out if the appellant is granted bail.

7.Accordingly, this Court grants interim bail to the appellant on condition that the petitioner to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) to the Superintendent of Prison, Puzhal, Chennai.



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8.After release, the appellant to appear before the 1st respondent Police/Investigating Officer on alternate days who shall take steps to recover the certificates of the victim girl and ensure all her belongings are returned to her and also confirm the victim girl and appellant are leading comfortable and happy matrimonial life.

9.Till such time no coercive action against the family members of the appellant to be taken, but they can be enquired during investigation.

10.Post the matter on 04.10.2024 at 02.30 p.m in chamber. The appellant and the victim girl/3rd respondent is directed to appear before this Court on 04.10.2024.”

4. Today, the Appellant along with his mother Amudha and sister Prithapriya present. The 3rd respondent is also present. The entire case stems out as matrimonial discard. The primary contention is that the defacto complainant hailing from a marginalized community had love affair with the appellant, latter they got married and during their matrimonial life her jewels and articles were pledged by the appellant. When she demanded the return of articles, there was matrimonial discord, latter she was



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chased out from the matrimonial home and at that time, her community was cited as a reason. Though she lodged a complaint earlier, it was not entertained citing that it was only a matrimonial dispute. Thereafter, the defacto complainant sent a representation to the National Commissioner for Schedule Caste and the National Commission on 14.05.2024 and it was forwarded to the defacto complainant's complaint to the Commissioner of Police, Chennai, thereafter, the case in Crime No.77 of 2024 was registered by the respondent Police, for the offence under Sections 498(A) and 406 of IPC., and Sections 3(1)(s) and 3(1)(z) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and Section 67 of the Information Technology Act, against the appellant, his mother Amudha and his sister Preethapriya and others and the appellant was arrested and latter, this Court by order dated 03.09.2024 granted interim bail to the appellant so that the matrimonial discard can be sorted out, the appellant and the defacto complainant/3rd respondent can join as husband and wife and continue their matrimonial life thereafter. The appellant has come out on bail and he was directed to appear before the respondent police to recover the certificates and ensure the return of articles of the defacto complainant.



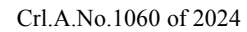
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5. Earlier, on 23.08.2024, this Court appointed Mr.E.V.Chandru, learned counsel to assist the victim/ defacto complainant / 3rd respondent in this regard.

6. Mr.E.V.Chandru, the learned counsel after instructions of the victim filed a typed set stating that the appellant earlier taken a loan from one Premalatha and 138 Negotiable Instrument Act case is pending between the appellant and the said Premalatha before the District Munsif-cum-Judicial Magistrate, Thisaiyanvilai. Further, the learned counsel submitted that the appellant has changed his approach to lead a happy matrimonial life with the 3rd respondent, who is an Engineering Graduate and, if the appellant and his family members accepts the 3rd respondent into their family fold, the 3rd respondent will not have any objection even dropping further action in Crime No.22/2024 and in quashing of the case.

7. Further, the defacto complainant / 3rd respondent appeared before this Court and gave a letter confirming the compromise and leading a matrimonial life, which is extracted hereunder:-

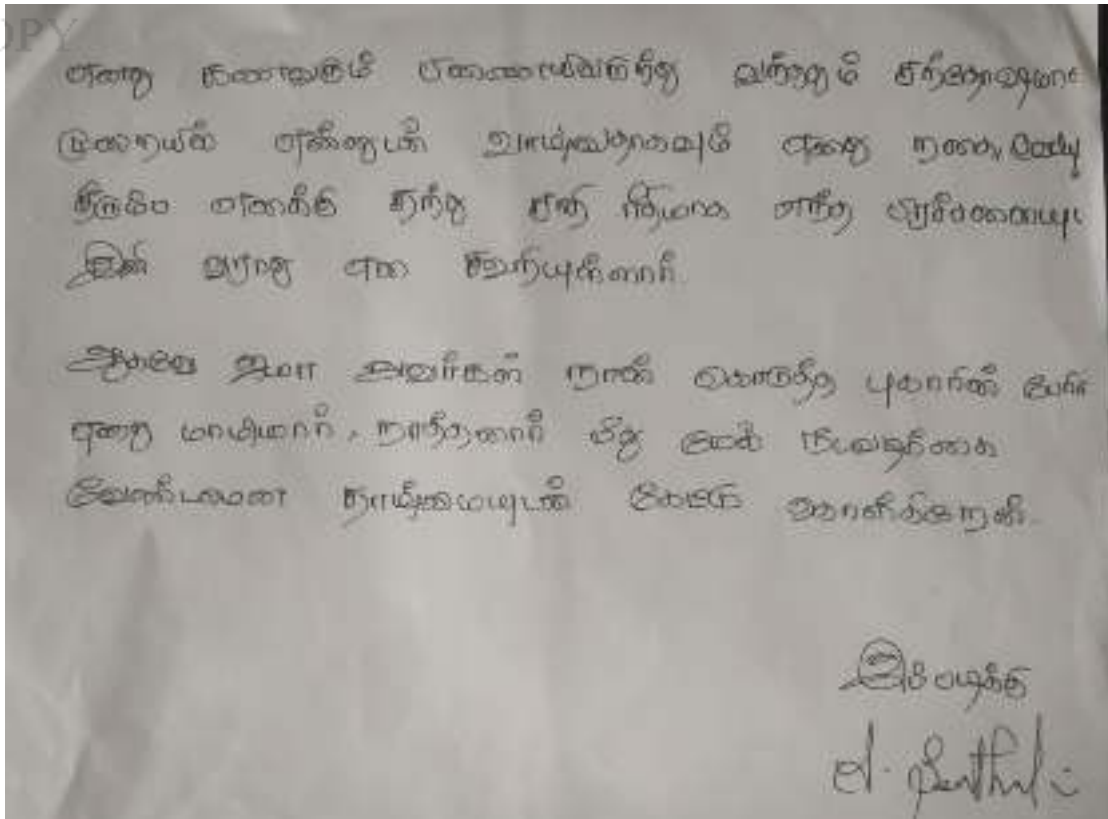


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8. In view of the above, this Court finds the continuation of proceedings in Crime No.22/2024, on the file of the 2nd Respondent Police, would only be an obstacle to the happy matrimonial life and would be doing more harm to the victim. In view of the same, this Criminal Appeal is allowed and quashes the proceedings in Crime No.22/2024, on the file of the 2nd Respondent Police, not only against the appellant, his mother, sister and all others persons involved in the offence, by invoking Section 482 of Cr.P.C., / 528 of BNSS Act.



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9. This quashing of FIR is with a condition that the Appellant and the 3rd respondent continue to lead a happy matrimonial life, as husband and wife. The Appellant's family accepted the 3rd respondent into their family fold. In the event of violating the above, the order of quashing of the FIR would stand recalled and the respondent police to continue with the investigation. This Court invoking Section 482 of Cr.P.C., / 528 of BNSS Act.

31.01.2025

Index: Yes/No
Internet: Yes/No
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To

1. The Special Judge,
Under SC & ST (Prevention of Atrocities) Act,
Principal Sessions Court, Chennai
2. The Assistant Commissioner,
Office of the Assistant Commissioner,
Chennai District.
3. State by Inspector of Police,
All Women Police Station,
Virugambakkam, Koyambedu,
Chennai District.
4. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

vv2

Pre-delivery judgment made in

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