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Crl.OP.No.29817 & 29818 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-02-2025

CORAM

THE HONOURABLE MR JUSTICE SUNDER MOHAN

CRL OP NO. 29817 & 29818 of 2024

S. Jayakumar

.. Petitioner
in Crl.OP.No.29817 of 2024

S.Karuppasamy

.. Petitioner
in Crl.OP.No.29818 of 2024

Vs

1. State Rep.By, Its,
The Inspector Of Police,
E-5, Sholavaram Police Station,
Thiruvallur District.
(Crime No.1091 of 2024)

2.Paneerselvam, V

.. Respondent in both the
petitions

For Petitioner:

Mr.S.Silambanan, Senior Counsel for
Mr.O.Raman (in both the petitions)

For Respondent-1: Mr.S.Balaji,
Government Advocate (Crl.Side)

For Respondent-2 : No Appearance



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COMMON ORDER

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 3(1)(r) and 3(1)(s) of the SC/ST (Prevention of Atrocities Act), 1989 in Crime No.1091 of 2024, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant was working as a Union leader in the company in which the petitioner were working; that on account of their misconduct action was taken against them; that thereafter they were transferred; that thinking that the petitioners were responsible for their transfer, the defacto complainant went to the room of the petitioners, and questioned them about the transfer; that the petitioners who are working as HR-Manager and Factory Manager respectively had insulted the defacto complainant, abused them in filthy language and also insulted them due to their caste. Hence, the case.



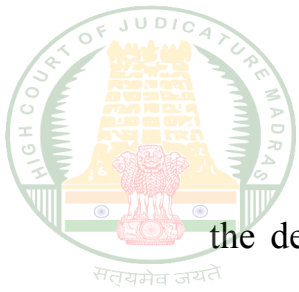
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3. The learned Senior Counsel appearing for the petitioner submitted that since the allegations do not prima facie constitute the offences under SC/ST, the petition for anticipatory bail is maintainable and relied upon the judgment of Hon'ble Supreme Court in **Shajan Skaria Vs State of Kerala**, it is reported in **2024 SCC Online SC 2249**, and sought for anticipatory bail.

4. The learned Government Advocate (Crl.Side) reiterated the prosecution case and submitted that there was prior enmity between the petitioners and the defacto complainant; and that the alleged incident took place in the room of the HR-Manager.

5. Though notice was served to the defacto complainant, and a learned counsel had entered appearance, when the matter was called on 07.01.2025, there was no representation for the defacto complainant. Today also, there is no representation for the defacto complainant.

6. Heard the learned counsel for the petitioners, learned counsel for



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the defacto complainant and the learned Government Advocate (Crl.Side) and perused the materials available on record.

7. Admittedly, the occurrence is said to have taken place inside the room of HR-Manager. The Hon'ble Supreme Court in **Hitesh Verma Vs. State of Uttarkhand and another** in **Cri.Appeal No.707 of 2020**, as follows: *“Allegation of abusing when made within four walls of building shall not attract the provisions of SC/ST Act, 1989”*.

8. As regards the maintainability of a petitioner for Anticipatory Bail the Hon'ble Supreme Court in **Shajan Skaria vs The State of Kerala, (cited supra)**, held that if the allegations do not prima facie constitute the offences under the SC/ST Act, anticipatory bail can be granted. The relevant portion in the said judgment as follows:

50. The duty to determine prima facie existence of the case is case upon the courts with a view to ensure that no unnecessary humiliation is caused to the accused. The courts should not shy away from conducting a preliminary inquiry to determine if the narration of facts in the



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complaint/FIR in fact discloses the essential ingredients required to constitute an offence under the Act, 1989. It is expected of the courts to apply their judicial mind to determine whether the allegations levelled in the complaint, on a plain reading, satisfy the ingredients constituting the alleged offence. Such application of judicial mind should be independent and without being influenced by the provisions even more importance when a prima facie finding on the case has the effect of precluding the accused person from seeking anticipatory bail, which is an important concomitant of personal liberty of the individual.

51. The aforesaid position is also apparent from a plain construction of the text of Section 18 of the Act, 1989. The words “having accusation in the complaint clearly points towards the commission of an offence under the Act, 1989 that the bar of Section 18 would apply. The minimum threshold for determining whether an offence under the Act which are necessary to constitute the offence are prima facie disclosed in the complaint or not. An accusation which does not disclose the necessary ingredients of the offence on a prima facie reading cannot be said to be sufficient to bring into operation the bar envisaged by Section 18 of the Act, 1989. Holding otherwise would mean that even a plain accusation, devoid of the essential



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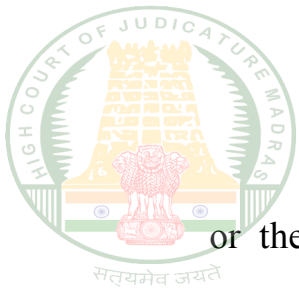


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ingredients required for constituting the offence, would be enough for invoking the bar under Section 18. In our considered view, such an approach would not be in line with the dictum as laid by this Court while uploading the Constitutionality of Sections 18 and 18-A respectively of the Act, 1989.

8. Admittedly the occurrence had taken place in a room. Hence it would not amount to insult in public view. Therefore the offences under Sections 3(1)(r) and 3(1)(s) of the SC/ST are not made out. Further the custodial interrogation of the petitioners is not required for the purpose of investigation. Hence, this Court is inclined to grant anticipatory bail to the petitioners on certain conditions.

9. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance within a period of fifteen days from the date of receipt of a copy of this order, before the learned **Judicial Magistrate No.II, Ponneri**, on condition that each petitioner shall execute a separate bond for a sum of **Rs.10,000/- (Rupees Ten Thousand only)**, with two sureties each for a like sum to the satisfaction of the respondent Police



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or the Police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further conditions that:

[a] the petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[c] the petitioners shall report before the respondent police everyday at 10.30 a.m., until further orders.

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioners shall not abscond either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].



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[g] If the accused thereafter abscond, a fresh FIR can be registered

under Section 269 B.N.S.

17.02.2025

drl

To

1. The Inspector Of Police,
E-5, Sholavaram Police Station,
Thiruvallur District.
2. The Public Prosecutor,
Madras High Court, Chennai.



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SUNDER MOHAN, J.

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