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CrI.A.No.1663 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CrI.A.No.1663 of 2024

S.Bharani

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Appellant /Accused

Vs.

1.The State represented by
Assistant Commissioner of Police,
Madipakkam, Chennai – 600 091.

2.The Inspector of Police,
W32-All Women Police Station,
Madipakkam, Chennai – 600 091.

3.S.Selvajothi

...

Respondents

Prayer: Criminal Appeal filed under Section 14-A(2) of the Cr.P.C praying to call for the records pertaining to the order dated 19.12.2024 in CrI.MP No.3733 of 2024 passed by the learned Principal District Sessions Judge at Chengalpattu and set aside the same and consequently enlarge the petitioner on bail in connection with Cr.No.12 of 2024 pending on the file of the 2nd respondent.



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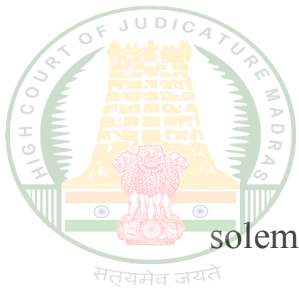
For Appellant : Mr.R.Vinayaga Vishnu
For Respondents 1 & 2 : Dr.C.E.Pratap,
Govt. Advocate (Crl.side)
For 3rd Respondent : Ms.A.Vinupradha
for Mr.M.Mohamed Haroon

J U D G M E N T

The appeal challenges the dismissal of the appellants' bail application filed before the Principal District & Sessions Judge, Chengalpattu.

2. On a complaint by the third respondent, a case was registered in Crime No.12 of 2024 for the alleged offence under Sections 318 (2) of BNS and Section 3(1)(r), 3(1)(s) of SC/ST (PoA) Act and Section 4 of Dowry Prohibition Act r/w Section 351(2) of BNS 2023.

3. The allegation in the complaint is that the victim/3rd respondent and the appellant were working in the same company; that the victim was a divorcee ; that the appellant and the victim had a love affair and the elders of the family arranged for the marriage; thereafter the parents of the appellant started demanding dowry and therefore the marriage could not be



solemnized; that when the victim questioned the appellant and his parents, they abused the victim in filthy language and also humiliated her caste.

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4. The learned counsel appearing for the appellant would submit that the appellant sought for bail before the trial court in Crl.MP No.3733 of 2024 and the said petition was dismissed on 19.12.2024 on the ground that there were serious allegations and that the investigation is at the early stage. The learned counsel further submitted that admittedly the appellant and the third respondent had a love affair ; that the allegations of dowry have been invented for the purpose of case and in any case, the complainant herself admitted that the betrothal was cancelled only at her instance and considering the period of incarceration, the appellant may be released on bail.

5. The learned counsel for the defacto complainant/third respondent, per contra submitted that though there was a love affair, the marriage could not be solemnized only because there was a dowry demand; that when subsequently questioned, the victim was humiliated on account of her caste



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and also abused in filthy language; that considering the seriousness of the offence, the bail application may be dismissed.

6. The learned Government Advocate (crl.side) appearing for the respondents 1 & 2 also reiterated the submissions made by the learned counsel for the defacto complainant/third respondent and considering the nature of allegations, strongly opposed for granting bail to the appellant.

7. Admittedly, the appellant and the victim had a love affair. It is also seen from the complaint that betrothal could not take place since the brother-in-law of the victim was ill. The complainant does not specifically state about the nature of dowry demanded. Be that as it may. The defacto complainant herself, after making all those allegations, had sought for the intervention of the police for solemnizing her marriage with the appellant. Therefore, this court is of the view that considering the nature of allegations and the period of incarceration, further custody of the appellant is not required for the purpose of investigation. Hence, this court is inclined to grant bail to the appellant.



WEB COPY 8. Accordingly, the appellant is ordered to be released on bail subject

to the following conditions:

(i) The appellant shall execute a 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 learned Principal District Sessions Judge at Chengalpattu ;

(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Judge may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(iii) the respondent police is directed to ensure that there is no threat to the life and safety of the de-facto complainant. In the event of any threat, appropriate steps to be taken.

(iv) the appellant shall not commit any offences of similar nature;

(v)the appellant shall not abscond either during investigation or trial;

(vi)the appellant shall not tamper with evidence or witness either during investigation or trial;

(vii) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the appellants in accordance with law as if the conditions have been imposed and the appellants 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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(viii)if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

9. In view of the above, the impugned order dated 19.12.2024 made in Crl.MP No.3733 of 2024 by the learned Principal District & Sessions Judge, Chengapattu is set aside and the Criminal Appeal is allowed.

07.01.2025

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
rgr

Note : Issue order copy by 07.01.2025
Upload the order copy forthwith.



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To

1.The Principal District Sessions Judge
Chengalpattu.

2.The Assistant Commissioner of Police,
Madipakkam, Chennai – 600 091.

3.The Inspector of Police,
W32-All Women Police Station,
Madipakkam, Chennai – 600 091.

4.The Superintendent,
Central Prison, Puzhal, Chennai.

5.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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