

Crl.A.(MD)No.321 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.A.(MD)No.321 of 2025

1. Subbu @ Subbuthevar

2. Mokkaian @ Mekkaya Thevar

... Appellants

versus

1. State of Tamil Nadu Rep. by
The Deputy Superintendent of Police,
Periyakulam,
Theni District.

2. State of Tamil Nadu Rep. By
The Inspector of Police,
Jeyamangalam Police Station,
Theni District.

3. B.Ganesan

... Respondents

Criminal Appeal filed under Section 14-A(2) of SC/ST Act, to call for the records pertaining to the order dated 07.03.2025 in Cr.M.P.No.57 of 2025 on the file of the Special Court for Trial of Cases under SC/ST (POA) Act, Theni and to set aside the same and enlarge the appellants on bail in connection with Crime No.29 of 2025 on the file of the 2nd respondent Police by allowing this criminal appeal.

For Appellants : Mr.P.Muthu Vijayapandian

For R1 and R2 : Mr.A.S.Abul Kalam Azad,
Government Advocate (Crl. Side)

For R3 : No appearance



Crl.A.(MD)No.321 of 2025

JUDGMENT

WEB COPY

The appellants are having a land in S.No.157/1, at Kullapurram Village, Devathanapatti, Periyakulam Taluk. Adjacent to their land, there was a Government land in S.No.172/6 to an extent of 2 acres and the same was classified as "waste dry". The appellants are using that land by cultivating the same and they were also issued with a "B memo". In this circumstances, the Government has assigned those two acres of land in favour of the defacto complainant/the third respondent herein and the same was objected by the appellants by filing an application before the Revenue Divisional Officer, Periyakulam and the Revenue Divisional Officer, by his proceedings in Na.Ka.No.6042/2010/ A3, dated 15.11.2011 has cancelled the order of assignment granted in favour of the defacto complainant with the reasons that the said land was in enjoyment by the appellants. The order of the Revenue Divisional Officer was challenged by the defacto complainant before this Court by way of a writ petition in WP(MD) No.1952 of 2024, seeking patta for the disputed land. The said writ petition was disposed of by this Court, by its order, dated 01.02.2024, directing the respondents to take a decision on the request of the defacto complainant with regard to the disputed land. The Revenue Divisional Officer, by his proceedings in Na.Ka.No.7378/2023/V2, has rejected the representation of the defacto complainant for grant of patta for the land in S.No.172/6. In this

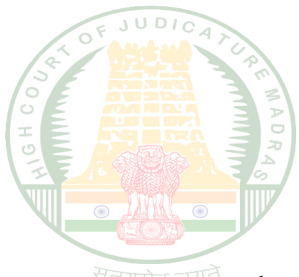


Crl.A.(MD)No.321 of 2025

सत्यमेव जयते
WEB COPY

circumstances, the appellants have lodged a complaint as against the defacto complainant that the defacto complainant has attempted to dispossess them from their agricultural land and the same was treated as petition enquiry in CSR No.135 of 2024. According to the learned counsel for the appellants, as a counter complaint, this complaint has been lodged by the defacto complainant on 07.03.2025, as if these appellants have forcibly evicted the defacto complainant from his land. The second respondent police has also registered a case in Crime No.29 of 2025, for the offence under sections 329(3), 324(2), 296(b), 115(2), 351(3) of BNSS and Section 4 of TNPHW Act r/w 3(1) (f), 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST (POA) Act, 1989. The appellants have approached this Court in Crl.OP(MD) No.3184 of 2025, seeking a direction and the same was ordered by this Court on 20.02.2025, permitting the appellants to surrender before the Special Court and to file a bail application. This Court has also issued a direction to the Special Court to consider the application, if any, filed by these appellants on the same day, after their surrender. Accordingly, these appellants have surrendered before the Special Court on 07.03.2025 and filed an application in Cr.MP.No.57 of 2025 and the same was dismissed by the Special Court, by its order dated 07.03.2025, considering the objections of the defacto complainant. Challenging the same, this Criminal Appeal has been filed.

2. The learned counsel for the appellants submitted that these appellants were



Crl.A.(MD)No.321 of 2025

enjoying the land in S.No.172/6 for several decades, for which, they were issued with a "B memo". The assignment granted in favour of the defacto complainant was cancelled by the Revenue Divisional Officer, by his order, dated 15.11.2011. The attempt made by the defacto complainant seeking Patta was also rejected by the Revenue Divisional Officer, by his order dated 16.08.2024. The learned counsel for the appellants further submits that the appellants have filed a suit in O.S.No.130 of 2024, before the District Munsif Court, Periyakulam as against the defacto complainant and the same is pending. The first appellant has lodged a complaint as against the defacto complainant in CSR No.135 of 2024 and therefore, as a counter complaint, this case has been foisted as against the appellants.

3. The learned Government Advocate appearing for the respondents 1 and 2 submitted that originally, the defacto complainant was assigned with the land in S.No.172/6 in the year 2006, however, the same was cancelled by the Revenue Divisional Officer in the year 2011. Challenging the same, the defacto complainant has filed a writ petition before this Court in WP(MD) No.1952 of 2024, wherein, this Court has issued a direction to the respondents therein to consider the request of the defacto complainant for grant of patta for the subject land. The Tahsildar has recommended for grant of patta in favour of the defacto complainant, based on which, the Revenue Divisional Officer has considered the same and restored the



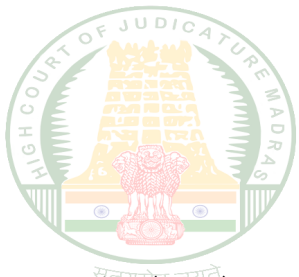
Crl.A.(MD)No.321 of 2025

सत्यमेव जयते
WEB COPY

assignment of land in favour of the defacto complainant, by his proceedings in Mu.Mu.No.3663/2024/ A3, dated 20.12.2024. The Revenue Divisional Officer has not rejected the request of the defacto complainant as projected by the appellants. Therefore, according to the learned Government Advocate, the defacto complainant was assigned with the land in S.No.172/6, however, the appellants have attempted to evict him forcibly and therefore, the complaint was lodged. Hence, the learned Government Advocate has strongly objected for grant of bail to the appellants. The defacto complainant has also appeared before this Court and submitted his apprehension.

4. This Court considered the rival submissions made and also perused the materials placed on record.

5. It appears that the appellants were in occupation of the disputed land in S.No.172/6 to an extent of 2 acres for several years. However, it was a Government land, which was classified as "waste land" and therefore, the Government has thought it fit to assign the land to the defacto complainant, vide proceedings of the year 2006. However, the order of assignment was cancelled subsequently in the year 2011. Now, it is reported that the order of cancellation has been restored in favour of the defacto complainant by the Revenue Divisional Officer, in his proceedings in Mu.Mu.No.3663/2024/ A3, dated 20.12.2024, as per the direction of this Court in



Crl.A.(MD)No.321 of 2025

WP(MD) No.1952 of 2024. This occurrence had taken place on 06.02.2025.

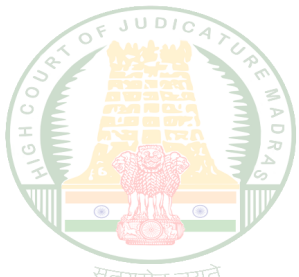
WEB COPY

6. Since the assignment order of the disputed land has been restored in favour of the defacto complainant on 20.12.2024, this Court is of the view that this is not a fit case for grant of bail to the appellants, however, the learned counsel for the appellants submits that he was not aware of the proceedings of the Revenue Divisional Officer, dated 20.12.2024. He further claims that he would advise his clients not to precipitate the issue till the proceedings attain finality in the civil litigation pending before the Civil Court.

7. Considering this issue and in order to prevent any untoward incident in future, this Court has referred the matter for mediation and also appointed Mr.S.Vanchinathan, learned counsel, who is having 20 years of experience, as a Mediator in this matter.

8. Mr.S.Vanchinathan, learned counsel, who was appointed as Mediator, submits that the parties have agreed for certain terms, however, the counsels have not agreed for the same. Therefore, the mediation failed. The learned counsel has also filed a failure report to that effect.

9. Admittedly, there is a dispute between the parties with regard to the said property. The appellants/accused were in enjoyment of the property for some time. Further, there are some orders in favour of the appellants also. In these



Crl.A.(MD)No.321 of 2025

सत्यमेव जयते
WEB COPY

circumstances, patta granted in favour of the appellants was cancelled and assignment was granted in favour of the defacto complainant. In the alleged incident, the appellants said to have attacked the defacto complainant with hands and there was no serious injury.

10. This Court, by order dated 19.03.2025, granted interim bail to the appellants enabling them to solve their issue amicably with the defacto complainant. It is now reported that the parties have agreed for certain terms. Further, the appellants are ready to file an undertaking affidavit before the respondent Police that they will not precipitate the issue until they get an order from the concerned Court and also from the Appellate Forum.

11. Considering the fact that the appellants are ready to file an undertaking affidavit as stated above, this Court is inclined to allow this Criminal Appeal.

(*)12. Accordingly, this Criminal Appeal is allowed and the order dated 07.03.2025 in Cr.M.P.No.57 of 2025 on the file of the Special Court for Trial of cases under SC/ST (POA) Act, Theni, is hereby set aside and the appellants are ordered to be released on bail on the following conditions:

(i) Since the appellants have already been granted interim bail by this Court, by order dated 19.03.2025, the appellants shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties, each for a like sum to the satisfaction of the



Crl.A.(MD)No.321 of 2025

Special Court for Trial of Cases under SC/ST (POA) Act, Theni,
within a period of two weeks from the date of receipt of a copy of
this order.

(ii) The appellants shall appear before the respondent Police daily at 10.30 a.m. until further orders. They have to co-operate for the investigation.

(iii) The appellants shall not misuse the liberty granted to them by indulging in any further offence and shall not tamper with the prosecution witnesses. They shall be available for the trial as well.

(iv) The appellants shall file an undertaking affidavit before the respondent Police that they will not precipitate the issue by creating any further problem."

Sd/-

02/04/2025

(*)Modified as per the order of this court dated 23.04.2025 made in Crl.A(MD).No.321 of 2025.

Sd/-

ASSISTANT REGISTRAR(R)

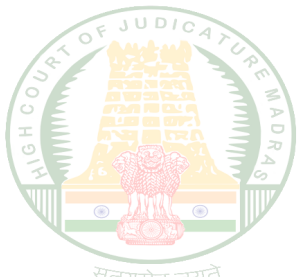
// True Copy //

24/04/2025

Sub Assistant Registrar
(CS - I/II/III/IV)

ogy

To be substituted to the order which is already despatched on 03.04.2025



Crl.A.(MD)No.321 of 2025

To
WEB COPY

1. The Judge,
The Special Court for Trial of Cases under SC/ST (POA) Act,
Theni.
2. The Deputy Superintendent of Police,
Periyakulam,
Theni District.
3. The Inspector of Police,
Jeyamangalam Police Station,
Theni District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Section Officer,
Criminal Records Section,
Madurai Bench of Madras High Court,
Madurai.(2 Copies)

+1 CC to M/s.P.MUTHU VIJAYA PANDIAN, Advocate (SR-21817[F] dated
02/04/2025)

Crl.A.(MD)No.321 of 2025
02.04.2025

BV (03/04/2025) 9P/ 8C

Madurai Bench of Madras High Court is issuing certified copies in this format from
17.07.2023.

SK (24/04/2025) 9P / 8C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.