

CrI.A.(MD).No.748 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 31.08.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CrI.A.(MD).No.748 of 2023

Thiyagarajan

... Appellant/Accused No.5

Vs.

1. The State of Tamil Nadu,
Rep by Deputy Superintendent of Police,
Othakadai Police Station,
Madurai District.

2. The Inspector of Police,
Appan Thiruppathi Police Station,
Maadurai District.
(Crime No.41 of 2015)

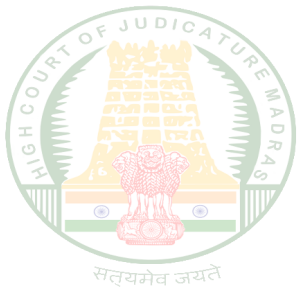
... Respondents / Complainant

3. Palani @ Palanirajan

... Victim / De-facto Complainant

PRAYER : Criminal Appeal filed under Section 14 A (2) of SC/ST (Prevention of Atrocities) Act, 1989 to Set aside the order of learned Judicial Magistrate Court No.V, Madurai District made in Cr.M.P.No.2789 of 2023 dated 31.07.2023 and allow this appeal by enlarging the appellant on bail in connection with PRC No.51 of 2017 on the file of the Judicial Magistrate No.V, Madurai District.

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For Appellant : Mr.K.Palamurugan
For Respondents : Mr.M.Muthumanikkam
Government Advocate(Crl.Side) for R1 & R2
: Mr.D.Raja Boopathy for R3

JUDGMENT

This Criminal Appeal has been filed to set aside the impugned order passed in Crl.M.P.No.2789 of 2023 dated 31.07.2023, on the file of the learned Judicial Magistrate No.V, Madurai District and enlarge the appellant on bail in connection with PRC.No.51 of 2017, on the file of the learned Judicial Magistrate No.V, Madurai District.

2.1. According to the prosecution, the appellant and the other accused said to have committed the offences under Sections 147, 148, 324, 506(2) and 323 of IPC,



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2.2. According to the prosecution, on 23.01.2015 at about 09.00 p.m, near Kadasanenthal, Uthaya Tea stall, when the defacto complainant selling chicken, the accused Nos.1 and 2 threatened the defacto complainant with knife and attacked him, the appellant and other accused have also attacked the defacto complainant with hands by abusing his caste name. Hence, the second respondent Police registered a case in Crime No.41 of 2015 against the appellant and the other accused persons, for the offences under Sections 147, 148, 324, 506(2) and 323 of IPC, after completing the investigation, the second respondent police filed a charge sheet before the learned Judicial Magistrate No.V, Madurai District and the same was taken on file in P.R.C.No.51 of 2017 for the offences under Sections 147, 148, 324, 323 and 506(2) of IPC r/w under Section 3(1) (X) of SC/ST (POA) Act 2015. The appellant has not appear before the trail Court for hearing, therefore, the learned Judicial Magistrate No.V, Madurai has issued Non-Bailable Warrant as against the appellant and subsequently, he was arrested on 26.07.2023 and still he is in custody. Aggrieved over the same, the appellant has preferred this Criminal appeal.



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3. The learned counsel for the appellant would submit that the appellant is working as a lorry cleaner and he all along appeared before the trial Court and on that particular hearing date alone he was not able to appear before the trial Court. Under the said circumstance, he seeks to grant bail to the appellant.

4. The learned counsel for the defacto complainant submitted that the case is pending in P.R.C. stage from the year 2015 onwards and hence he strongly objects for grant of bail to the appellant.

5. The learned Government Advocate (Criminal Side) appearing for the respondents 1 and 2, also reiterated the submission of the defacto complainant and submitted that in view of the pendency of Non-bailable warrant, the case was not committed to the jurisdictional Court and hence, he seeks dismissal of this appeal.

6. This Court considered the rival submissions made on either side and perused the materials available on record.



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7. The appellant along with the other accused said to have attacked the defacto complainant with hands and sustained injury. The injured is also discharged from the hospital. As a lorry cleaner, the appellant could not appear before the trial Court on 16.05.2022. Considering the period of incarceration and also there is no bad antecedent against the appellant, this Court is inclined to allow the Criminal Appeal by setting aside the order, dated 31.07.2023 made in Cr.M.P.No.2789 of 2023 on the file of the learned Judicial Magistrate Court No.V, Madurai District.

8. Accordingly, the Criminal Appeal is allowed and the order dated 31.07.2023 made in Cr.M.P.No.2789 of 2023 on the file of the learned Judicial Magistrate No.V, Madurai District, is set aside. The appellant is ordered to be released on bail on his executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the Judicial Magistrate No.V, Madurai, and on further conditions that:



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(a) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Judicial Magistrate No.V, Madurai, may obtain a copy of their valid identity card to ensure their identity.

(b) the appellant shall appear before the learned Judicial Magistrate No.V, Madruai daily, daily at 10.30 am, till the commital proceeding is over. Thereafter, the appellant is directed to appear before the Special Court, Madurai, on the first working day of every English Calendar month.

(c) the appellant shall not tamper with evidence or witness either during investigation or trial.

(d) the appellant shall co-operate with the investigation.

(e) On breach of any of the aforesaid conditions, the learned 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 appellant 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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(f) If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

31.08.2023

NCC :Yes/No
Index :Yes/No
Internet :Yes/No
sbn

Note: Issue order copy on 31.08.2023

To

- 1.The Deputy Superintendent of Police,
Othakadai Police Station,
Madurai District.
- 2.The Inspector of Police,
Appan Thiruppathi Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 4.The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court, Madurai.

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K.K.RAMAKRISHNAN, J.

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