



CrI.A.(MD).No.494 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 29.09.2023

Pronounced on : 11.10.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CrI.A.(MD).No.494 of 2023

Sutherson

.. Appellant /Accused No.15

Vs.

1.The Deputy Superintendent of Police,
Thoothukudi Rural,
SIPCOT Police Station,
Thoothukudi.
(Crime No.48/2023)

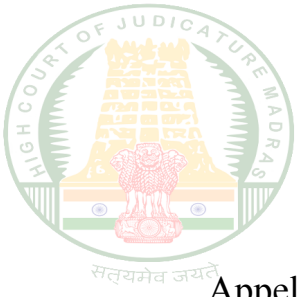
.. 1st Respondent/Complainant

2.Ramkumar

..2nd Respondent/Defacto
Complainant

PRAYER: Criminal Appeal filed under Section 14A(2) of SC/ST (Prevention of Atrocities) Act, 1989, to set aside the order passed by the learned Special Court for trial of cases under SC/ST(POA)Act, Thoothukudi in CrI.M.P.No.528 of 2023 dated 22.06.2023 and grant bail to the

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Appellant/Accused No.15 in Crime No.48 of 2023 on the file of the respondent police.

For Appellant : Mr.N.Anandhapadmanabhan
Senior Counsel
for M/s. APN Law Associates

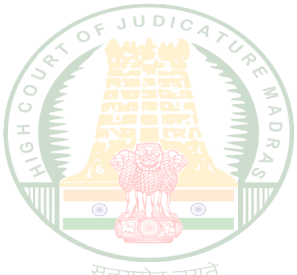
For Respondents : Mr.T.Senthil Kumar
Additional Public Prosecutor
For R1

: Mr.A.Robinson
For R2

JUDGMENT

Accused No.15 in Crime No.48 of 2023 on the file of the respondent police is the appellant herein. The respondent police registered a case against the appellant and other accused for the offences under Sections 147, 148, 449, 302 and 109 IPC r/w 3(2)(v) of SC/ST (Prevention of Atrocities) Act, 1989. The appellant filed the bail application in CrI.M.P.No.528 of 2023 and the same was dismissed by the learned trial Judge by the

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impugned order, dated 22.06.2023.

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2. The case of the prosecution.

According to the prosecution, the deceased is a practising advocate in Thoothukudi and Tirunelveli Bar Association. The defacto complainant in the above crime number has two brothers. One of his brother's name is P.K.Shivakumar and another brother's name is P.K.Muthukumar. The said P.K.Shivakumar was murdered by a mob in front of the Court campus in the presence of the deceased P.K.Muthukumar and the defacto complainant. Hence, the Thoothukudi South police station registered a case in Crime No. 533 of 2019. In the said case, one of the accused is Rajesh. The said Rajesh is the friend of the present appellant. According to the prosecution, the present appellant is a B.Tech Graduate and got Gold medal from Anna University. Earlier, he was working in a software company at Chennai. Thereafter, he came to his native place to do agricultural activities. After his arrival to Thoothukudi, he developed the relationship with the said Rajesh. The deceased advocate P.K.Muthukumar and the defacto complainant herein were continuously taking steps to intervene in the bail applications filed by

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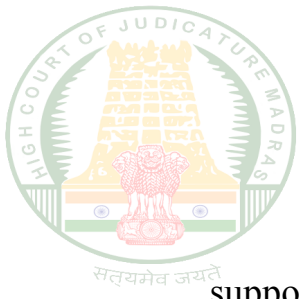
all the accused in the murder case of his brother P.K.Shivakumar. The same infuriated and provoked the accused in Crime No.533 of 2019 to hatch a plan to eliminate the said P.K.Muthukumar as he was hurdle to them for getting bail. Therefore, the accused in the jail conspired with this appelland and other accused and murdered the said P.K.Muthukumar, Advocate on 22.02.2023 at 2.15 p.m, near P.K.Gold Loan Shop at Thoothukudi Soreeshpuram Madhapur Road. Hence, the complaint was given before the SIPCOT Police Station, namely, the respondent police. The respondent police registered a case in Crime No.48 of 2023 for the offence under Sections 147, 148, 449, 302 and 109 IPC r/w 3(2)(v) of the SC/ST (Prevention of Atrocities) Act, 1989. The investigation officer arrested the accused and filed the final report against 15 accused and the same was taken on file in S.C.No.25 of 2023. The appelland filed the bail application and the defacto complainant also appeared and submitted his detailed counter. The learned Additional Public Prosecutor also filed a detailed counter. The learned trial Judge, after considering all the materials and submissions, dismissed the bail petition vide the impugned order dated 22.06.2023. Challenging the same, the appelland filed this appeal before this

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3. The learned Senior Counsel for the appellant made the following submissions:

3.1. The appellant is an B.Tech Graduate and Gold medalist in Anna University. One of the brother of the defacto complainant, P.K.Shivakumar was murdered on 21.08.2019 at 10.00 a.m in the eastern side to the Court post office. In the said case, one Rajesh is arrayed as one of the accused. He is the friend of the present appellant. In the said case, number of times, the bail petitions filed by Rajesh and other accused were dismissed upon considering the objection raised by the defacto complainant and his brother P.K.Muthukumar. Therefore, the accused made a conspiracy and murdered the said P.K.Muthukumar on 22.02.2023 at 2.15 p.m, in Thoothukudi Bazaar near P.K.Gold Loan Shop. Therefore, the respondent police registered the case in Crime No.48 of 2023 for the alleged offence as stated above. The Investigating agency arrested number of accused in this case and the arrested accused made confession stating that the appellant made arrangement to release his friend Rajesh on bail by providing the financial



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support. On the basis of the said confession, the appellant voluntarily surrendered and he was arrested on 08.04.2023 and confined in the prison. Only available evidence against him is the confession statement of the co-accused and the transfer of amount from his bank account to the other accused in this case. The same was not sufficient to invoke the conspiracy charge against the appellant. The appellant has no previous antecedents and he is a Gold medallist and he innocently made the bank transaction and hence he seeks for bail.

4. The learned Additional Public Prosecutor made the following submission:

4.1. One of the brother of the defacto complainant namely, P.K.Shivakumar was murdered in front of the Court premises on 21.08.2019 and the same was witnessed by the defacto complainant and his another brother deceased P.K.Muthukumar. The Thoothukudi South Police Station registered the case against number of accused in Crime No.533 of 2019 for the alleged offence under Sections 147, 148, 341, 294(b), 302, 506(ii) IPC r/w 3(2)(v) of the SC/ST(POA) Act. After investigation in the said case, the

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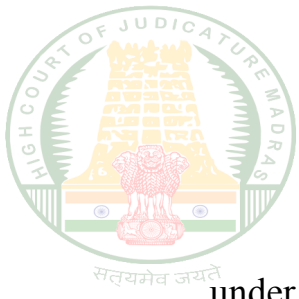


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investigation officer filed the final report against 21 persons. In the said case, one Rajesh is arrayed as one of the accused. The friend of the said accused is the appellant herein. The said Rajesh has number of previous cases. The defacto complainant and his deceased brother P.K.Muthukumar filed the intervening petition and opposed the bail petition of the above 21 accused. Hence, they were unable to come out on bail. In view of the above, the defacto complainant and his brother have been continuously criminally intimidated by the accused and hence, there was a continuous life threat. Hence, they filed a writ petition before this Court seeking police protection. In the said writ petition, this Court vide order dated 19.09.2019 directed the concerned authorities to consider the representation dated 26.08.2019 and give police protection to them. The District Police Administration only gave the protection in their house. That being the situation, the accused Rajesh and the appellant and other accused conspired together to eliminate both the defacto complainant and the deceased P.K.Muthukumar. As per the conspiracy, they committed the murder in a well planned manner on 22.02.2023 at 2.15 p.m in the Thoothukudi Bazaar near P.K.Gold Loan Shop. Therefore, the respondent police registered the case for the offence

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under Sections 147, 148, 449, 302 and 109 IPC r/w 3(2)(v) of SC/ST(POA) Act in Crime No.48 of 2023. During the investigation, the investigation officer collected number of incriminating materials to meet the allegation made against the appellant. The investigating agency has not only collected the details of some bank transaction from the appellant's account but also numerous telephonic conversation, before and after the occurrence, made with the accused in the case. In addition to that, two important witnesses had also spoken about the conspiracy made by the appellant with the remaining accused. The investigating agency also collected materials to show that the appellant made contribution before and after the occurrence through the bank transaction to the accused involved in this case. The call details were also collected to show that the appellant made phone calls before and after occurrence to the accused. In the said circumstances, the submission made by the learned Senior counsel that only available material against the appellant is the confession of the co-accused to prove the conspiracy, is not correct. The learned Additional Public Prosecutor further submitted that after the earlier murder and the present murder, all the witnesses are under the life threat. More than three FIRs were registered

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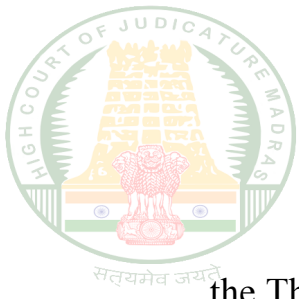
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with regard to the life threat made by the accused. In view of the above grave circumstance, he prays for dismissal of this appeal.

5. The learned counsel for the defacto complainant reiterated the above submission of the learned Additional Public Prosecutor and made the following specific submission:

5.1. Both murder were done in a well planned manner. The said planned crimes could not be treated as ordinary murder. His brother P.K.Shivakumar was murdered in front of the Court campus. Another brother P.K.Muthukumar deceased in this case was murdered in the main city of Thoothukudi at 2.15 p.m on 22.02.2023. In both murder, number of hirelings are involved. Even before the present murder of P.K.Muthukumar, there was a continuous life threat to the witnesses and the said P.K.Muthukumar and hence, P.K.Muthukumar and the defacto complainant filed a petition seeking police protection before this Court and this Court directed the police administration to give the necessary police protection. Hence, the District Police Administration gave the protection to the house of the defacto complainant. In spite of that, P.K.Muthukumar was murdered in

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the Thoothukudi Bazaar. After the registration of this case for the murder of P.K.Muthukumar, the defacto complainant has been facing continuous threat from the accused side. Therefore, FIR was registered in Crime No.1103 of 2023. Apart from that even during the hearing of this appeal proceedings, he received threat at Madurai also. In both cases, eventhough final report had been filed and the same were taken on file in S.C.No.62 of 2020 and S.C.No.25 of 2023. In the earlier S.C.No.62 of 2020, due to absence of A21, the case was split into S.C.No.63 of 2020 as against A21. The appellant and the other accused in this case as well as in the earlier murder case have not cooperated to complete the trial. From the above non-cooperation of the accused to complete the trial, it is clear that the accused planned to murder the defacto complainant also. The Special Act also specifically provided for the externment of the person, who are likely to be committed the offence apart from the provision to give the protection to the witnesses. Hence, he seeks for early disposal of the trial in the vulnerable witness complexes created as per the direction of the Hon'ble Supreme Court in the judgment reported in **2019(14)SCC615**. He further submitted that in the absence of the said complex, the trial may be conducted in the jail premises and also

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seeks for dismissal of this appeal and he placed reliance on the following judgments:

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(i) 2004(7)SCC 525[Chaman Lal v. State of Uttarpradesh]

(ii) (2022) 5 SCC 465[Jaibunisha v. Meharban]:

(iii) (2021) 6 SCC 191 [Naveen Singh v. State of U.P.]:

(iv) (2021) 6 SCC 230[Ramesh Bhavan Rathod v. Vishanbhai

Hirabhai Makwana]:

(v)(2021) 4 SCC [Sudha Singh v. State of U.P.,]

(vi) (2022) 4 SCC 497 [Brijmani Devi v. Pappu Kumar]

(vii) AIR online 2022 SC 679 [Vinod Malali Vs. State of

Karnataka]

6. This Court has considered the rival submissions made by both parties and perused the records and the precedents relied upon by them.

7. It is seen from the records that the defacto complainant namely, the second respondent herein has two brothers. One is P.K.Shivakumar and the another is P.K.Muthukumar. At the time of occurrence, both the second

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respondent and his brother P.K.Muthukumar were practising advocates in Thoothukudi and Tirunelveli District. Their family has been doing Real Estate business and other business in that locality. Due to the business rivalry and other property dispute, on 21.08.2019, when the defacto complainant and his brother P.K.Shivakumar were coming to the Court for hearing, in front of the Court, P.K.Shivakumar was murdered by the accused Rajesh, Peter and his friends. Therefore, the Thoothukudi South Police Station registered the case in Crime No.533 of 2019 for the alleged offence under Sections 147, 148, 341, 294(b), 302, 506(ii) IPC r/w 3(2)(v) of the SC/ST(POA) Act. The investigation officer completed the investigation and filed the final report before the jurisdictional Special Court and the same was taken on file in S.C.No.62 of 2020. In the said case, P.K.Muthukumar was shown as second in the list of witnesses in the final report. He was threatened by the brother of the accused Rajesh and hence, another case was registered in Crime No.730 of 2020 by the Thoothukudi South Police Station. The same was investigated and final report was filed and the said case was pending in S.C.No.97 of 2020. Further, when the informant and his deceased brother were attending the Court cases, the accused Peter had

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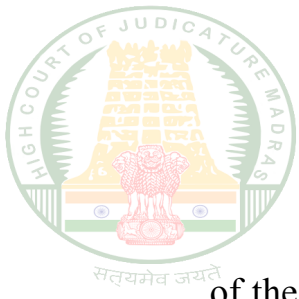
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threatened them and hence, a complaint was given before the Palayamkottai Police Station.

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8. In view of the above threats, the defacto complainant and his brother have obtained an order for police protection from this Court. The accused in the murder case of P.K.Shivakumar filed bail applications. In the said applications, P.K.Muthukumar, as an informant, filed the objection petitions as per the statutory provision under Section 15A of the SC/ST (POA) Act. Hence, all the bail petitions were dismissed except A19, A20, A15 & A16. The complainant also filed cancellation petition before the Hon'ble Supreme Court and this Court. Therefore, accused in the above Crime No.533 of 2019 conspired together in jail with the accused in the present case to murder the advocate P.K.Muthukumar, brother of the defacto complainant. Accordingly, on 22.02.2023, when the defacto complainant and his advocate brother went to the pawn shop at 2.15 p.m, the accused murdered the said P.K.Muthukumar at 2.15 p.m of 22.02.2023. Therefore, the respondent police registered the case against the appellant and other accused under Sections 147, 148, 341, 294(b), 302, 506(ii) IPC r/w 3(2)(v)

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of the SC/ST(POA) Act. As per the prosecution version, the accused Rajesh has number of previous cases. The appellant is the friend of the said Rajesh and he is also accused in the earlier murder case in Crime No.533 of 2019. The appellant had contacted with the brother of the said Rajesh in order to eliminate the deceased. The appellant made phone contacts with the number of accused and he transferred some amount from his account to number of accused. He also made the phone calls from his mobile number to the other accused before and after the occurrence. The investigating officer collected number of materials in this aspect. The investigating officer also examined number of witnesses to prove the conspiracy made between the appellant and the other accused. Their motive of conspiracy is to eliminate the witnesses in Crime No.533 of 2019 in order to get bail and acquittal. The deceased P.K.Muthukumar was not only the eyewitness to the occurrence in Crime No.533 of 2019 but he had taken steps to dismiss the bail petitions. Hence, the arrested accused in Crime No.533 of 2019 are inside the jail for a couple of years. Therefore, they planned and murdered the said P.K.Muthukumar in a well planned manner through hirelings. In the said circumstances, the submission made by the learned Senior Counsel that

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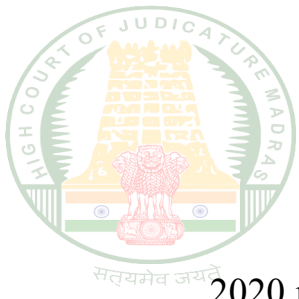
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the only allegation against the appellant is that he transferred some amount to get bail for Rajesh, is not accepted. According to the prosecution, the investigating agency collected volume of materials apart from the bank transaction and also examined number of witnesses to prove the conspiracy. In view of the above strong materials available against the appellant, this Court is not inclined to grant bail to the appellant.

9. In this case, 15 persons are arrayed as accused. Among them, most of the persons have number of previous cases. Among the previous cases, number of cases are grave in nature. Hence, the appellant's relationship with the accused itself is a strong circumstance to decline the bail.

10. The SC/ST(POA)Act specifically emphasizes to provide the adequate protection to the victim and witnesses. In this case, the appellants and other accused eliminated one of the witnesses in the earlier case. Further, there is a continuous life threat to the defacto complainant also. The respondent police also registered another crime number in Crime No.176 of

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2020 registered for the offence under Section 294(b) and 506(i) IPC, for the
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criminal intimidation to the defacto complainant. As on date, all the witnesses are under the fear psychosis. In the said circumstances, this Court is not inclined to grant bail.

11. The Hon'ble Supreme Court in *2004(7)SCC 525[Chaman Lal v. State of Uttarpradesh]*, has held that while granting bail, following ingredients are to be considered.

(i). Nature of the accusation and severity of the punishment in the case of conviction and nature of the supporting evidence.

(ii). Reasonable apprehension of tampering with witness or apprehension of threat to the complainant.

(iii). Prima satisfaction of Court in support of the charge.

12. In this case, from the above discussion, all the above ingredients are made out and hence, the appellant is not entitled to bail.

13. Even though the appellant is confined in jail for a long period, in



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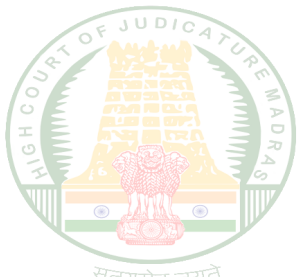
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the peculiar circumstances of this case, the same is not a ground to grant the relief of bail to the appellant. In this aspect, it is relevant to note the judgment of the Hon'ble Supreme Court reported in **(2022) 5 SCC 465**[*Jaibunisha v. Meharban*]:

“21.6. Another factor which should guide the courts' decision in deciding a bail application is the period of custody. However, as noted in Ash Mohammad v. Shiv Raj Singh [(2012) 9 SCC 446] the period of custody has to be weighed simultaneously with the totality of the circumstances and the criminal antecedents of the accused, if any. Further, the circumstances which may justify the grant of bail are to be considered in the larger context of the societal concern involved in releasing an accused, in juxtaposition to individual liberty of the accused seeking bail.”

14. This Court is not inclined to grant bail merely because the final report is filed when there is a reasonable apprehension of potential threat to the witnesses. In this aspect, it is relevant to note the judgment of the Hon'ble Supreme Court reported in **(2021) 6 SCC 191** [*Naveen Singh v.*

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State of U.P.,J:
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“12.5. Merely because the charge-sheet is filed is no ground to release the accused on bail.”

15. From the submission of the learned Additional Public Prosecutor and the learned counsel appearing for the defacto complainant and comparative position of the accused and the victim, this Court *prima facie* finds that the apprehension of the safety of the victim and other witnesses is well founded. In this aspect, it is relevant to refer the judgment of the Hon'ble Supreme Court reported in **(2021) 6 SCC 230[Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwana]**:

“This is for the reason that the outcome of the application has a significant bearing on the liberty of the accused on one hand as well as the public interest in the due enforcement of criminal justice on the other. The rights of the victims and their families are at stake as well. These are not matters involving the private rights of two individual parties, as in a civil proceeding. The proper enforcement of criminal law is a matter of public interest.”

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16. In the case of **Sudha Singh v. State of U.P.**, reported in (2021) 4 SCC, the Hon'ble Supreme Court has held as follows:

“7. We find in this case that the High Court has overlooked several aspects, such as the potential threat to witnesses, forcing the trial court to grant protection. It is needless to point out that in cases of this nature, it is important that courts do not enlarge an accused on bail with a blinkered vision by just taking into account only the parties before them and the incident in question. It is necessary for courts to consider the impact that release of such persons on bail will have on the witnesses yet to be examined and the innocent members of the family of the victim who might be the next victims.”

16.1. In the case of **Brijmani Devi v. Pappu Kumar**, reported in (2022) 4 SCC 497 the Hon'ble Supreme Court has held as follows:

35. While we are conscious of the fact that liberty of an individual is an invaluable right, at the same time while considering an application for bail courts cannot lose sight of the serious nature of the



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accusations against an accused and the facts that have a bearing in the case, particularly, when the accusations may not be false, frivolous or vexatious in nature but are supported by adequate material brought on record so as to enable a court to arrive at a prima facie conclusion. While considering an application for grant of bail a prima facie conclusion must be supported by reasons and must be arrived at after having regard to the vital facts of the case brought on record. Due consideration must be given to facts suggestive of the nature of crime, the criminal antecedents of the accused, if any, and the nature of punishment that would follow a conviction vis-à-vis the offence(s) alleged against an accused.

36. We have extracted the relevant portions of the impugned orders [Pappu Kumar v. State of Bihar, 2021 SCC OnLine Pat 2856] , above. At the outset, we observe that the extracted portions are the only portions forming part of the “reasoning” of the High Court while granting bail. As noted from the aforesaid judgments, it is not necessary for a court to give elaborate reasons while granting bail particularly when the case is at the initial stage and the allegations



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of the offences by the accused would not have been crystallised as such. There cannot be elaborate details recorded to give an impression that the case is one that would result in a conviction or, by contrast, in an acquittal while passing an order on an application for grant of bail. At the same time, a balance would have to be struck between the nature of the allegations made against the accused; severity of the punishment if the allegations are proved beyond reasonable doubt and would result in a conviction; reasonable apprehension of the witnesses being influenced by the accused; tampering of the evidence; the frivolity in the case of the prosecution; criminal antecedents of the accused; and a prima facie satisfaction of the court in support of the charge against the accused.”

16.2. In the case of *Vinod Malali Vs. State of Karnataka* reported in *AIR online 2022 SC 679*, the Hon'ble Supreme Court has held as follows:

10. *Having heard the learned counsel for the parties, a perusal of the order dated 29.09.2021 passed in Criminal Appeal No.1120 of 2021, at the threshold*



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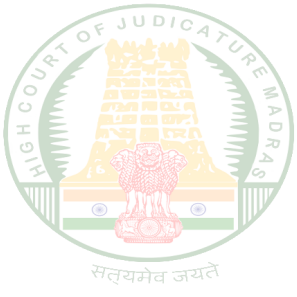


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indicates that the order to which, two of us (Hon'ble CJI and Justice Hima Kohli) were members on the Bench relates to the accused No.4 in the very same criminal proceedings. This Court has adverted to all facts relating to the instant crime and the manner in which the incident had taken place. It was also noted that the High Court while ordering to enlarge accused No.4 on bail, in the petition which had arisen for consideration before it, had erred in not considering the fact that the appellant being the eye witness to the commission of the crime, is facing a threat to his life and release of the accused on bail has aggravated the said threat. In addition, this Court had observed that in the meanwhile, if the co accused of the respondent No.2 (Accused No.4) to that case have also been released on bail, the appellant or the prosecution shall be at liberty to seek cancellation of their bail in accordance with law.”

17. In view of the above circumstances, this Court is not inclined to grant bail. Accordingly, this Criminal Appeal is dismissed.

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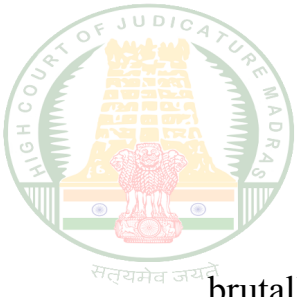
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18. In the peculiar circumstances of the case, dismissal of this appeal alone would not serve the purpose. On the one hand, the accused are inside the jail without getting bail, and on the other hand, the witnesses are under the perpetual and constant threat and only available family member eyewitness to the occurrence is the second respondent. The second respondent/defacto complainant herein in the FIR in Crime No.48 of 2023 itself had lodged the complaint as follows:

“ எனது அண்ணன் படுகொலைக்கு மேற்படி ரமேஷ், முருகேசன் மற்றும் அவர்களின் மைத்துனரான பெரியதுரை ஆகியோர்கள் மற்றும் தேன்ராஜ், மந்திரம் தூண்டுதலின் பேரிலே எனது அண்ணன் பி.கே.முத்துக்குமார் கொலை செய்யப்பட்டார். மேற்படி நபர்களால் நானும் என் குடும்பத்தினரும் மிகுந்த உயிர் அச்சத்தில் உள்ளோம். மேற்படி நபர்களின் மீது வழக்கு பதிவு செய்து உரிய நடவடிக்கை எடுக்குமாறு கேட்டுக்கொள்கிறேன்.

19. The defacto complainant's first brother P.K.Shivakumar was



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brutally attacked and murdered on 21.08.2019 at 9.30 a.m in front of the Court campus and the same was witnessed by the deceased P.K.Muthukumar and the defacto complainant/second respondent herein. In the said case, totally 21 accused are involved. Number of the accused have previous antecedents and they are involved in number of heinous offence. Among them, number of persons are hirelings. Their antecedents are described as follows:



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List of Criminal Cases on 21 Accused in South PS Cr No. 533/2019

A1 RAJESH @ RAJESHWARAN

S. No.	Station & Cr. No.	Stage
1.	SIPCOT P.S Cr. No. 319/12 U/s 394 IPC	UI
2.	Sankarankovil P.S Cr. No. 366/16 U/s 120(b), 147, 148, 149, 294(b), 302, 449, 506(ii) IPC	PT
3.	Sankarankovil Town P.S Cr. No. 370/16 U/s 147, 148, 294(b), 341, 307, 387 IPC	PT
4.	Thisayanvial P.S Cr. No. 319/18 U/s 147, 201, 294(b), 302, 323, 364, 449, 506(ii) IPC & 3 of TNPPDL Act	PT
5.	Pudukottai P.S. Cr. No.221/2019, U/s.147, 148, 341, 294 (b), 302, 506 (II), 120.B, 34, 149, 114, 352, 109 IPC	PT
6.	South P.S Cr.No.533/2019 U/S 147, 148, 341, 294(B), 302, 506(II), r/w 34, 109 IPC & 3(2) (V) SC/ST (POA) Act.	PT
7.	South P.S Cr.No.730/2019 U/s. 341, 294(b), 506(ii), 3(1)(r), 3(1)(s) of SC/ST Act	PT
8.	SIPCOT PS Cr.No.48/2023 U/S. 147, 148, 449, 302, 109, 120B, 212, IPC & 3(2)(v) SC/STs (POA) Act @ 147,148,149, 109, 120(B), 212,449,302,34 IPC & 3(2)(v), 3(2)(vi) SC/ST Act	PT

A2: Peter @ Antony Peter:

S. No.	Station & Cr. No.	Stage
1.	Sankarankovil P.S Cr. No. 366/16 U/s 120(b), 147, 148, 149, 294(b), 302, 449, 506(ii) IPC	PT
2.	Sankarankovil Town P.S Cr. No. 370/16 U/s 147, 148, 294(b), 341, 307, 387 IPC	PT
3.	Thisayanvial P.S Cr. No. 319/18 U/s 147, 201, 294(b), 302, 323, 364, 449, 506(ii) IPC & 3 of TNPPDL Act	PT
4.	South P.S Cr.No.533/2019 U/S 147, 148, 341, 294(6(II), r/w 34, 109 IPC & 3(2) (V) SC/ST (POA) Act.	PT
5.	Palayamkottai PS Cr.No. 176/2020 U/s 294(b), 506(i) of IPC	PT
6.	SIPCOT PS Cr.No.48/2023 U/S. 147, 148, 449, 302, 109, 120B, 212, IPC & 3(2)(v) SC/STs (POA) Act @ 147,148,149, 109, 120(B), 212,449,302,34 IPC & 3(2)(v), 3(2)(vi) SC/ST Act	PT

A-3 SANKARAMOORTHY

S.No	Station & Cr.No	Stage
1.	Thoothukudi South P.S Cr.No. 967/11 - U/s 147, 148, 149, 120(b); 341, 294(b), 302, IPC	PT



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2.	Thoothukudi South P.S Cr.No. 700/12 - U/s 341, 294(b), 324, 307 IPC	NTF
	Thoothukudi South P.S Cr.No. 701/12 - U/s 341, 294(b), 307, 506(ii)	PT

A4) Maruthavel @ Pappadai:

S.No	Station & Cr.No	Stage
1.	South PS Cr. No. 641/15, u/s. 341, 294(b), 307, 506(2) IPC	NTF
2.	South PS Cr.No. 1069/15, u/s. 341, 294(b), 307, 506(2) IPC	Con
3.	South PS Cr.No. 864/16, u/s. 294(b), 307, 506(2) IPC	NTF
4.	South PS Cr.No. 1421/16, u/s. 341, 294(b), 387, 506(2) IPC	Con
5.	North PS Cr.No. 169/2019, 8 (c) r/w 20(b)(ii)(V), 29(1) NDPS Act.	Con
6.	Thattaparai PS Cr.No. 23/16, u/s. 341, 323, 326, 506(2) IPC & 3 of TNPPDL Act	Acq
7.	Pudukottai PS Cr.No. 223/17, u/s. 147, 294(b), 323, 326, 506(ii) IPC & 3(1)@, 3(1) (s), 3(2) (V) SC/ST Act	PT
8.	Pudukottai, PS Cr.No. 184/18, u/s. 147, 148, 341, 294(b), 324, 506(ii) IPC @ 341, 294(b), 324, 506(2) IPC. (noted in Detention Order)	PT
9.	SIPCOT PS Cr.No. 497/2018, u/s. 341, 324 , 506(ii) IPC and 3 of TNPPDL Act. (noted in Detention Order)	NTF
10.	Thoothukudi South PS Cr.No. 278/2019, u/s. 147, 148, 294(b), 506(ii) IPC and 4 of TNPHW Act2002. (noted in Detention Order)	PT
11.	SIPCOT PS Cr.No. 170/2019, u/s. 294(b), 506(ii) IPC	PT
12.	SIPCOT PS 171/19, u/s. 294(b), 506(ii) IPC and 3 of TNPPDL Act	UI
13.	South P.S CR. NO.533/19 - U/S 147, 148, 341, 294(B), 302, 506(II), r/w 34, 109 IPC & 3(2) (V) SC/ST (POA) Amendment Act 2015	PT

A5) Vikki @ Vigneshwaran @ Vigneshkumar, S/o. Pethuraj

S.No	Station & Cr.No	Stage
1.	Sankarankovil P.S Cr. No. 366/16 - U/s 120(b), 147, 148, 149, 294(b), 302, 449, 506(ii) IPC	PT
2.	Pudukottai PS Cr.No. 223/17, u/s. 147, 294(b), 323, 326, 506(ii) IPC & 3(1)@, 3(1) (s), 3(2) (V) SC/ST Act	PT
3.	Thisayanvizhai PS Cr.No. 319/2018, u/s. 147, 448, 294(b), 323, 364, 506(ii) IPC & sec 3 of TNPPDL Act @ 147, 294(b), 323, 364, 506(ii), 449, 302, 201 IPC & sec 3 of TNPPDL Act	PT
4.	South P.S Cr.No. 278/19 - U/s 147, 148, 294(b), 506(ii) IPC & 4 of TNPHW Act	PT
5.	South P.S CR. NO.533/19 - U/S 147, 148, 341, 294(B), 302, 506(II), r/w 34, 109 IPC & 3(2) (V) SC/ST (POA) Amendment Act 2015	PT

A7) Sathiyaraj.



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S.No	Station & Cr.No	Stage
1		PT
4.	THOOTHUKUDI NORTH P.S Cr.No. 483/15 - U/s 294(b), 387, 506(ii) IPC	NTF
5.	Thoothukudi North PS Cr.No. 309/2016, u/s. 294(b), 324, 506(2) IPC	PT
6.	THOOTHUKUDI CENTRAL P.S Cr.No. 755/16 - U/s 294(b), 324, 506(ii) IPC	PT
7.	THOOTHUKUDI SOUTH P.S Cr.No. 933/16 - U/s 302 IPC @ 109, 147, 148, 294(b), 341, 302 IPC	PT
8.	THOOTHUKUDI SOUTH P.S Cr.No. 864/16 - U/s 294(b), 307, 506(ii) IPC	NTF
9.	THOOTHUKUDI SOUTH P.S Cr.No. 527/16 - U/s 294(B), 341, 307, 506(ii) IPC & 3 of TNPPDL Act	NTF
10.	THOOTHUKUDI NORTH P.S Cr.No. 535/17 - U/s 147, 294(b), 342, 353, 307 IPC & 3 OF TNPPDL Act	PT
11.	THOOTHUKUDI NORTH P.S Cr.No. 300/18 - U/s 294(b), 341, 307, 387, 506(ii) IPC	PT
12.	SIPCOT P.S Cr.No. 497/18 - U/s 323, 326, 34, 341, 506(ii) IPC & 3 of TNPPDL Act	NTF
13.	South P.S CR. NO.533/19 - U/S 147, 148, 341, 294(B), 302, 506(II), r/w 34, 109 IPC & 3(2) (V) SC/ST (POA) Amendment Act 2015.	PT

A-10 BALASUBRAMANIAN, MULLAKADU

S.No	Station & Cr.No	Stage
1.	Sankarankovil P.S Cr. No. 366/16 - U/s 120(b), 147, 148, 149, 294(b), 302, 449, 506(ii) IPC	PT
2.	Pudukottai PS Cr.No. 145/2017, u/s. 147, 294(b), 323, 506(2) IPC	Acq.
3.	South P.S CR. NO.533/19 - U/S 147, 148, 341, 294(B), 302, 506(II), r/w 34, 109 IPC & 3(2) (V) SC/ST (POA) Amendment Act 2015.	PT

A-11 Kanthavel

S.No	Station & Cr.No	Stage
1.	Sawerpuram P.S Cr.No. 121/17 - U/S 294(B), 323, 326, 506(II) IPC	Acq
2.	Sawerpuram P.S Cr.No. 111/18 - U/S 294(B), 387, 506(II) IPC	PT
3.	Pudukottai P.S Cr.No. 311/18 - U/S 294(B), 323, 324, 506(II) IPC	PT
4.	South P.S Cr. No.533/19 - U/S 147, 148, 341, 294(B), 302, 506(II), R/W 34, 109 IPC & 3(2) (V) SC/ST (POA) Amendment Act 2015	PT



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A-12 Kanagaraj Alias Rasukutti

S.No	Station & Cr.No	Stage
1.	South P.S Cr.No. 831/16 - U/S 294(B), 307, 506(II) IPC & 3 of TNPPDL Act	NTF
2.	South P.S Cr.No. 506/16 - U/S 294(B), 341, 387, 506(II) IPC	Con
3.	Pudukottai PS Cr.No. 223/17, u/s. 147, 294(b), 323, 326, 506(ii) IPC & 3(1)@, 3(1) (s), 3(2) (V) SC/ST Act	PT
4.	Pudukottai, PS Cr.No. 184/18, u/s. 147, 148, 341, 294(b), 324, 506(ii) IPC @ 341, 294(b), 324, 506(2) IPC. (noted in Detention Order)	PT
5.	South P.S Cr.No. 278/19 - U/S 147, 148, 294(b), 506(2) IPC and 4 of TNPHW Act	PT
6.	North P.S Cr.No. 169/19 - U/S 8(C), r/w 20 (B) (II) (B), 29 (I) N.D.P.S Act	Con
7.	Sipcot P.S Cr.No. 170/19 - U/S 294(B), 506(II) IPC	PT
8.	South P.S Cr. No.533/19 - U/S 147, 148, 341, 294(B), 302, 506(II), R/W 34, 109 IPC & 3(2) (V) SC/ST (POA) Amendment Act 2015	PT

A-13 Vickey Alias Vignesh

S.No	Station & Cr.No	Stage
1.	Pudukottai P.S Cr.No. 145/17 - U/S 147, 294(B), 323, 506(II) IPC	Acq
2.	Sawerpuram P.S Cr.No. 22/19 - U/S 291 IPC	Con
3.	Sipcot P.S Cr.No. 116/18 - U/S 107, 147, 148, 294(B), 307, 324, 506(II) IPC	PT
4.	South P.S CR. NO.533/19 - U/S 147, 148, 341, 294(B), 302, 506(II), r/w 34, 109 IPC & 3(2) (V) SC/ST (POA) Amendment Act 2015	PT

A-14 SELVAKUMAR

S.No	Station & Cr.No	Stage
5.	Thisayanvilai P.S Cr.No. 319/18 U/s 147, 201, 294(b), 302, 323, 364, 449, 506(ii) IPC & 3 of TNPPDL Act	PT
6.	South P.S.CR. NO.533/19 - U/S 147, 148, 341, 294(B), 302, 506(II), r/w 34, 109 IPC & 3(2) (V) SC/ST (POA) Amendment Act 2015	PT

A-16 THANGAM - TNHB COLONY



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S.No	Station & Cr.No	Stage
1.	SIPCOT P.S Cr.No. 497/18 - U/s 341, 323, 326, 506(ii) IPC & 3 of TNPPDL Act	NTF
2.	South P.S CR. NO.533/19 - U/S 147, 148, 341, 294(B), 302, 506(II), r/w 34, 109 IPC & 3(2) (V) SC/ST (POA) Amendment Act 2015	PT

A-17 JESUBALAN @ KURUMBUR BALA

S.No	Station & Cr.No	Stage
1.	Sankarankovil P.S Cr. No. 366/16 - U/s 120(b), 147, 148, 149, 294(b), 302, 449, 506(ii) IPC	PT
2.	Pavoor Chathiram P.S Cr.No. 461/17 - U/s 294(B), 397, 506(ii) IPC	NTF
3.	Muthiahpuram P.S Cr.No. 357/18 - U/s 294(B), 323, 324, 341, 448 506(ii) IPC	Con
4.	Thisayanvilai P.S Cr.No. 319/18 - U/s 147, 201 294(B), 302, 323, 264, 449, 506(ii) IPC & 3 of TNPPDL Act	PT
5.	South P.S CR. NO.533/19 - U/S 147, 148, 341, 294(B), 302, 506(II), r/w 34, 109 IPC & 3(2) (V) SC/ST (POA) Amendment Act 2015	PT

A-16 PONSARAYANA PERUMAL

S.No	Station & Cr.No	Stage
1.	South P.S CR. NO.533/19 - U/S 147, 148, 341, 294(B), 302, 506(II), r/w 34, 109 IPC & 3(2) (V) SC/ST (POA) Amendment Act 2015	PT

A-15 DINESH

S.No	Station & Cr.No	Stage
1.	South P.S CR. NO.533/19 - U/S 147, 148, 341, 294(B), 302, 506(II), r/w 34, 109 IPC & 3(2) (V) SC/ST (POA) Amendment Act 2015	PT
2.	SIPCOT PS Cr.No.48/2023 U/S. 147, 148, 449, 302, 109, 120B, 212, IPC & 3(2)(v) SC/STs (POA) Act @ 147,148,149,109,120(B), 212,449,302,34 IPC & 3(2)(v), 3(2)(vi) SC/ST Act	PT

A-19 RAMESH

S.No	Station & Cr.No	Stage
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1.	Pudukottai PS CrNo. 239/16, u/s. 341, 294(b), 387, 506(2)IPC	Acq
2.	South P.S CR. NO.533/19 - U/S 147, 148, 341, 294(B), 302, 506(II), r/w 34, 109 IPC & 3(2) (V) SC/ST (POA) Amendment Act 2015	PT
3.	South P.S CR. NO.730/19 - U/S 341, 294(B), 506(II) IPC & 3(1) (r), 3(1)(s) & 3(2)(V) of SC/ST (POA) Amendment Act 2015.	PT

A-20 PERIYADURAL

S.No	Station & Cr.No	Stage
1.	Pudukottai PS Cr. No. 240/2019, u/s 379 IPC	NTF
2.	South P.S CR. NO.533/19 - U/S 147, 148, 341, 294(B), 302, 506(II), r/w 34, 109 IPC & 3(2) (V) SC/ST (POA) Amendment Act 2015	PT

A-21 MURUGESAN - NIL

S.No	Station & Cr.No	Stage
1.	South P.S CR. NO.533/19 - U/S 147, 148, 341, 294(B), 302, 506(II), r/w 34, 109 IPC & 3(2) (V) SC/ST (POA) Amendment Act 2015	PT
2.	SIPCOT PS Cr.No.48/2023 U/S. 147, 148, 449, 302, 109, 120B, 212, IPC & 3(2)(v) SC/STs (POA) Act @ 147, 148, 149, 109, 120(B), 212, 449, 302, 34 IPC & 3(2)(v), 3(2)(vi) SC/ST Act	PT



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20. In the said case, Ramkumar was the complainant and the deceased P.K.Muthukumar filed the objection petition during the hearing of the bail petitions. Hence, their bail petitions were dismissed and also the case was posted for trial. In order to eliminate the said P.K.Muthukumar and the defacto complainant, the said Rajesh and the other accused in this case conspired with the appellant and other arrayed accused in this crime number and murdered the said P.K.Muthukumar in a well planned manner. After the murder of the said P.K.Muthukumar, the atmosphere in the Court Hall is not conducive. This Court called for the report from the Court below to know about the stage of the case. The learned trial Judge sent a detailed report. In the said report, it is stated that inspite of the direction issued by this Court to complete the trial within the specified period, the accused have not cooperated to complete the trial within the time frame. During every hearing, the accused filed petition after petition and caused hindrance to the trial. Further it is stated that at the time of every hearing, a group of advocates are representing both the defacto complainant as well as the accused, hence, the trial Judge is unable to dispose the same within the specified time.

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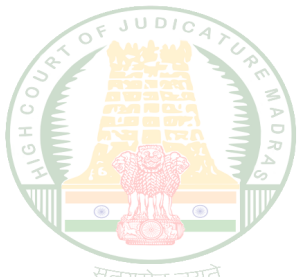
21. From the above report, it is clear that the learned trial Judge is not in a position to conduct the trial in peaceful manner in the Court campus.

22. Apart from that, the Superintendent of Police, District Police Administration, Thoothukudi submitted two reports in a sealed cover. The sum and substance of the report disclosed that there will be a threat to the life of the witnesses and also a chance of retaliation.

23. The defacto complainant also expressed the difficulty in conducting the case before the Court citing reason that his life is under constant threat. He also produced the FIR recently registered in which it is clearly stated that there was a threat to the witnesses.

24. Even before that as stated above, the deceased P.K.Muthukumar was threatened by the brother of the accused Rajesh and FIR was registered in Crime No.730 of 2020 and the same was investigated and the final report was filed before the Special Court and the same was also taken on file in

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S.C.No.97 of 2020. Apart from that one of the accused, namely, Peter has also threatened the complainant and other witnesses and hence, another FIR is pending in another police station, namely, Palayamkottai police station.

25. From the above criminal background of the number of accused and considering the fact that most of the accused are hirelings, and the prosecution agency is also expressing some difficulties in the progress of the case and the District Police Administration also having furnished some secret information in the sealed cover, this Court feels all the witnesses are under peril of life threat. The law enforcing authority and the Presiding Officer are all facing number of difficulties in conducting the trial in the above cases. The District Police Administration also has submitted secret information regarding the life threat to the witnesses.

26. In the said circumstances, it is relevant to note the direction of the Hon'ble Supreme Court relating to the witness protection. The Hon'ble Supreme Court in **2009 (6) SCC 767** in ***National Human Rights Commissions v. State of Gujarat*** held as follows:

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“7. It is an established fact that witnesses form the key ingredient in a criminal trial and it is the testimonies of these very witnesses, which establish the guilt of the accused. It is, therefore, imperative that fair justice to be done, the protection of witnesses and victims becomes essential, as it is the reliance on their testimony and complaints that the actual perpetrators of heinous crimes during the communal violence can be brought to book.

37. Since the protection of a witness is of paramount importance it is imperative that if and when any witness seeks protection so that he or she can depose freely in court, the same has to be provided.”

27. Commissioner of Police, Delhi v. Registrar, Delhi High Court,

[(1996) 6 SCC 323]:

“16. Assurance of a fair trial is the first imperative of the dispensation of justice.

17. We repeat that the High Court does not deny the threat perception. At the same time it requires avoidance of dislocation of the ordinary routine of the courts when producing the protectee in the Tis Hazari Court. It is also not disputed that the protectee would have to visit the courts a number of times not only in this case but in other cases too. We are equally conscious that his appearance time and again, would put a lot many people to



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inconvenience, if it is insisted upon that like any other criminal, he too should appear in court in such conditions. In these circumstances the assessment of the situation made by the appellants would normally require no contradiction particularly when there is no mala fide exercise of power. Should the worst happen, the protectee alone may not depart from the world, as others too might go with him. Instinct of self-preservation is the foremost to be favourably responded. The concern of the appellants is therefore justified.”

28. The Hon'ble Supreme Court in State of Maharashtra v.

Bandu has directed as follows:

“10. there should be special centres for examination of vulnerable witnesses in criminal cases in the interest of conducive environment in Court so as to encourage a vulnerable victim to make a statement.”

29. The SC/ST(POA)Act also demands protection to the victims and

witnesses and the relevant provisions are as follows:

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15A. Rights of victims and witnesses.

(1) It shall be the duty and responsibility of the State to make arrangements for the protection of victims, their dependents, and witnesses against any kind of intimidation or coercion or inducement or violence or threats of violence.

(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the Special Court or the Exclusive Special Court trying a case under this Act shall provide to a victim, his dependent, informant or witnesses—

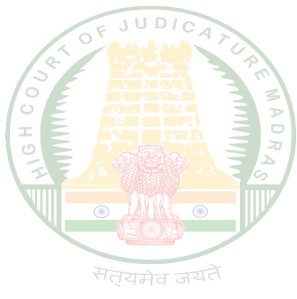
(a) the complete protection to secure the ends of justice;

(d) relocation.

(10) All proceedings relating to offences under this Act shall be video recorded.

(11) It shall be the duty of the concerned State to specify an appropriate scheme to ensure implementation of the following rights and entitlements of victims and witnesses in accessing justice so as—

(h) to provide the protection to atrocity victims or their



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dependents and witnesses from intimidation and harassment;

“Section 10. Removal of person likely to commit offence.—

(1) Where the Special Court is satisfied, upon a complaint or a police report that a person is likely to commit an offence under Chapter II of this Act in any area included in Scheduled Areas' or tribal areas', as referred to in article 244 of the Constitution, 3 [or any area identified under the provisions of clause (vii) of sub-section (2) of section 21], it may, by order in writing, direct such person to remove himself beyond the limits of such area, by such route and within such time as may be specified in the order, and not to return to that area from which he was directed to remove himself for such period, not exceeding 4 [three years], as may be specified in the order.

(2) The Special Court shall, along with the order under sub-section (1), communicate to the person directed under that sub-section the grounds on which such order has been made.

(3) The Special Court may revoke or modify the order



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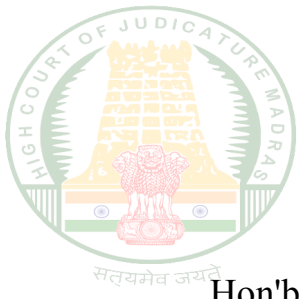
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made under sub-section (1), for the reasons to be recorded in writing, on the representation made by the person against whom such order has been made or by any other person on his behalf within thirty days from the date of the order.

30. From the above provisions of the Special Act, it is clear that to make the arrangements of the protection of victims, their dependents and witnesses against any kind of intimation or coercion or inducement or violence or threat of violence is absolutely necessary. It is the duty of the Special Court to complete the trial by giving complete protection to secure the ends of justice and also the Government to specify an appropriate scheme to provide the protection programme to give protection to the victims or their dependents and witnesses from intimidation and harassment. The Act also provides that removal of persons from the place of the victims upon satisfaction that a person is likely to commit offence repeatedly.

31. In *Mahender Chawla v. Union of India, (2019) 14 SCC 615* the

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Hon'ble Supreme Court issued a direction to constitute the *Vulnerable Witness Deposition Complexes* with the following direction:

“31. Part II, 7(l) of the Witness Protection Scheme, 2018 provides for usage of specially designed court room having special arrangements like live links, one way mirrors, and screens apart from separate passages for witnesses and accused with the option to modify the image of the face of the witness and to modify the audio feed of the witness's voice, so that he/she is not identified.

32. In consonance with the same, the Delhi Judiciary has already established four Vulnerable Witness Deposition Complexes in the National Capital Territory, the latest one being at the Dwarka District Court, which was established in February 2017. This complex provides facilities like separate witness room, separate accused room, play area for the child witnesses, pantry, separate toilet and an exclusive and comfortable waiting area and is equipped with all facilities of audio-visual exchange for a free interface between the presiding Judge, the witness and the accused without witness facing the accused. The complex has a separate entry for vulnerable witnesses, so that they do not come in direct contact with accused at any point of time. There are provisions for support persons, pre-trial court visit and facilities for pick and drop of the witnesses from their residence. In this way, all possible efforts have been made for providing comfortable environment to vulnerable witnesses at this complex in order to enable them to give their best evidence in criminal proceedings.

33. One of the main reasons behind establishing these Vulnerable Witness Deposition Complexes was that a large



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percentage of acquittals in criminal cases is due to witnesses turning hostile and giving false testimonies, mostly due to lack of protection for them and their families, especially in case of women and children.

35. One thing which emerges from the aforesaid discussion is that there is a paramount need to have witness protection regime, in a statutory form, which all the stakeholders and all the players in the criminal justice system concede. At the same time no such legislation has been brought about. These are the considerations which had influenced this Court to have a holistic regime of witness protection which should be considered as law under Article 141 of the Constitution till a suitable law is framed.

36.1. This Court has given its imprimatur to the Scheme prepared by Respondent 1 which is approved hereby. It comes into effect forthwith.

36.2. The Union of India as well as the States and the Union Territories shall enforce the Witness Protection Scheme, 2018 in letter and spirit.

36.3. It shall be the “law” under Articles 141/142 of the Constitution, till the enactment of suitable parliamentary and/or State legislations on the subject.

36.4. In line with the aforesaid provisions contained in the Scheme, in all the district courts in India, Vulnerable Witness Deposition Complexes shall be set up by the States and Union Territories. This should be achieved within a period of one year i.e. by the end of the year 2019. The



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Central Government should also support this endeavour of the States/Union Territories by helping them financially and otherwise.

32. Since there was no said *Vulnerable Witness Deposition Complexes* in the District Court of Thoothukudi, this Court, in the tripod interest of the society, accused and witnesses, duty bound to find a way to redress the grievance of all sides. Hence, this Court feels that this is an extraordinary circumstances of the present extraordinary case, the constitutional Court has power to mould the Law so as to serve the needs of time in order to achieve a harmonious adjustment in human relations by elimination of social tension and conflict by adopting the law laid down by the Hon'ble Supreme Court in **2012(1)SCC10[Prithipal Singh v. State of Punjab]**:

“50.Extraordinary situations demand extraordinary remedies. While dealing with an unprecedented case, the Court has to innovate the law and may also pass an unconventional order keeping in mind that an extraordinary fact situation requires extraordinary measures.”

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33. Further, the Hon'ble Supreme Court in ***B.P.Achala Anand v. S.***

Appi Reddy, (2005) 3 SCC 313 held as follows:

“Unusual fact situation posing issues for resolution is an opportunity for innovation. Law, as administered by courts, transforms into justice.

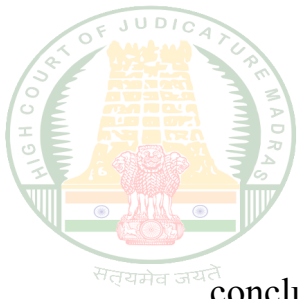
“The definition of justice mentioned in Justinian's Corpus Juris Civilis (adopted from the Roman jurist Ulpian) states: ‘Justice is constant and perpetual will to render to everyone that to which he is entitled.’ Similarly, Cicero described justice as ‘the disposition of the human mind to render everyone his due’

The law does not remain static. It does not operate in a vacuum. As social norms and values change, laws too have to be reinterpreted, and recast. Law is really a dynamic instrument fashioned by society for the purposes of achieving harmonious adjustment, human relations by elimination of social tensions and conflicts. Lord Denning once said:

“Law does not stand still; it moves continuously. Once this is recognised, then the task of a judge is put on a higher plane. He must consciously seek to mould the law so as to serve the needs of the time.”

34. In the present case also, the extra ordinary circumstances demands the extraordinary remedy. According to this Court, the extraordinary remedy that would satisfy the present case situation is commencement and

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conclusion of trial in both cases in the jail premises. One additional fact is that bringing the 21 accused in the S.C.No.62 of 2020 and bringing the 15 accused in the S.C.No.25 of 2023 from jail and conducting the trial in the Court premises when the group of persons supporting each other through the Court and also the learned Special Judge having submitted a report that on each hearing, the group of advocates appear on behalf of the accused as well as the defacto complainant and the same also prima facie makes this Court to feel that the trial in the Court premises in both the cases may not be conducive. In a different situation, the Hon'ble Thiru. Justice Krishna Iyer in **Menaka Sanjay Gandhi v. Rani Jeth Malani** reported in **1979(4) SCC 167**, has held that the transfer may be effected from one Court to another in the interest of the safety of the person of accused or complainant in the following words:

“... Likewise, the safety of the person of an accused or complainant is an essential condition for participation in a trial and where that is put in peril by commotion, tumult or threat on account of pathological conditions prevalent in a particular venue, the request for a transfer may not be dismissed summarily. It causes disquiet and concern to a court of justice if a person seeking justice is unable to appear, present



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one's case, bring one's witnesses or adduce evidence. Indeed, it is the duty of the court to assure propitious conditions which conduce to comparative tranquillity at the trial. Turbulent conditions putting the accused's life in danger or creating chaos inside the court hall may jettison public justice. If this vice is peculiar to a particular place and is persistent the transfer of the case from that place may become necessary. Likewise, if there is general consternation or atmosphere of tension or raging masses of people in the entire region taking sides and polluting the climate, vitiating the necessary neutrality to hold a detached judicial trial, the situation may be said to have deteriorated to such an extent as to warrant transfer.”

35. The power of this Court is not fettered and it can be used in extraordinary situation. Eventhough this Court dismissed the appeal by considering the submission of the learned counsel appearing on either side, in exceptional circumstances of the present case, following the principle laid down by the Hon'ble Supreme Court in the case of ***Popular Muthiah v. State***, reported in **(2006) 7 SCC 296**, this Court has jurisdiction to invoke the power under Section 482 Cr.P.C in the interest of justice. The relevant portion of the judgment is as follows:

“26. Section 386 of the Code of Criminal



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Procedure provides for the power of the appellate court. Indisputably, stricto sensu in terms thereof the appellate court cannot direct a person to stand trial. Its jurisdiction is specified thereunder.

27. While exercising its appellate power, the jurisdiction of the High Court although is limited but, in our opinion, there exists a distinction but a significant one being that the High Court can exercise its revisional jurisdiction and/or inherent jurisdiction not only when an application therefor is filed but also suo motu. It is not in dispute that suo motu power can be exercised by the High Court while exercising its revisional jurisdiction. There may not, therefore, be an embargo for the High Court to exercise its extraordinary inherent jurisdiction while exercising other jurisdictions in the matter. Keeping in view the intention of Parliament, while making the new law the emphasis of Parliament being “a case before the court” in contradistinction from “a person who is arrayed as an accused before it” when the High Court is seized with the entire case although would exercise a limited jurisdiction in terms of Section 386 of the Code of Criminal Procedure, the same, in our considered view, cannot be held to limit its other powers and in particular that of Section 482 of the Code of Criminal Procedure in relation to the matter which is not before it.”

30. In respect of the incidental or supplemental power, evidently, the High Court can exercise its inherent jurisdiction irrespective of the nature of the proceedings. It is not trammelled by procedural restrictions in that:

(i) Power can be exercised suo motu in the interest of justice. If such a power is not conceded, it may even lead to injustice to an accused.

(ii) Such a power can be exercised



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concurrently with the appellate or revisional jurisdiction and no formal application is required to be filed therefor.

(iii) It is, however, beyond any doubt that the power under Section 482 of the Code of Criminal Procedure is not limited. It can inter alia be exercised where the Code is silent, where the power of the court is not treated as exhaustive, or there is a specific provision in the Code; or the statute does not fall within the purview of the Code because it involves application of a special law. It acts ex debito justitiae. It can, thus, do real and substantial justice for which alone it exists.”

36. The direction to conduct the trial in jail is not a new one and the Hon'ble Supreme Court and also various High Courts justify the trial in jail premises upon considering the various factors like life threat to the accused, witnesses and the hostile atmosphere. As per Section 327 Cr.P.C (corresponding old Section 352 Cr.P.C), it is permissible to conduct the trial in the jail premises and the same was considered by the Hon'ble Supreme Court and various High Courts in different occasions. The same is as follows:



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36.1. In AIR 1917 Lah 311, Executive Authorities were of opinion that it would be unsafe to hold the trial elsewhere and justified the trial conducted in the jail.

36.2. Narwarsingh v. State [AIR 1952 MB 193]:

“3. As to the objection about holding of the trial in Jail premises, I think there is no force in it. The Government has appointed Mr. Agarwal, as a Special Magistrate under Section 14 of the Cr PC to try the cases against the applicant and has defined the area of his jurisdiction as comprising the entire Madhya Bharat. In holding the trial in the Central Jail premises, Indore, the Magistrate is therefore, holding the trial within the limits of his jurisdiction. There is nothing in the Criminal Procedure Code to compel a Magistrate to hold his court in the usual Court premises. Section 352 of the Code gives a wide discretion to the Magistrate as regards the place where a trial or inquiry is to be held. The ordinary rule is no doubt that the trial or inquiry should be held in the usual court-room. But there may be circumstances under which the Magistrate may think it expedient for reasons of security for the accused or for the witnesses or for any other valid ground to hold the trial in Jail premises.”

36.3. T.R. Ganesan, In re., [1950 SCC OnLine Mad 98]:

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“While we agree with the learned Judge that it would be open to a Magistrate to hold a trial in the jail premises we are however unable to agree with him with the condition added to it that such trials could be held within the premises only if the offences are not connected with those premises. There is no warrant for this proviso which the learned Judge has added and we think such a restricted interpretation of S. 352 is not warranted by the language or the spirit with which it was enacted.”

36.4. Naresh Shridhar Mirajkar v. State of Maharashtra, [AIR 1967

SC 1]:

“What would meet the ends of justice will always depend upon the facts of each case and the requirements of justice. In a certain case, the Court may feel that the trial may continue to be a public trial, but that the evidence of a particular witness need not receive excessive publicity, because fear of such excessive publicity may prevent the witness from speaking the truth.”

36.5. Prasanta Kumar Mukherjee v. State, [AIR 1952 Cal 91]:

“There may be circumstances in which for reasons of security for the accused or for the witnesses or for



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the Magistrate himself or for other valid reason; the Magistrate may think it proper to hold court inside a jail building or some other building and restrict the free access of the public.”

36.6. Mohd. Shahabuddin v. State of Bihar, [(2010)4SCC 653]:

“ In a case of extraordinary nature, the universal rule of open trial may not be adhered to. This is the settled legal position crystallised by a three-Judge Bench of this Court in Kehar Singh case [(1988) 3 SCC 609 : 1988 SCC (Cri) 711] . The High Court looking to the exceptional and extraordinary circumstances can take such a decision and no personal hearing is warranted before taking such a decision.

91.He also mentioned in his report that his physical production in the court during the trial may be a source of menace to the public peace and tranquillity, besides posing a great threat to the internal security extending to other prosecution witnesses and other prosecutors. It was also



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indicated in the report that it may also have an adverse impact on inside court working condition making the situation surcharged during the trial. He suggested that to promote efficient conducting of trial as also to strengthen its efficacy, the trial of the appellant be conducted by constituting a Special Court inside District Jail, Siwan which, according to him, was an imperative need of the time. He therefore, suggested that the Patna High Court may be requested to constitute Special Courts for the trial of the appellant inside District Jail, Siwan.”

37. Hence, this Court issues the following directions:

(i) The learned Special Judge, Special Court for trial of cases under SC/ST(POA)Act, Thoothukudi, is directed to dispose the trial in S.C.No.62 of 2020, S.C.No.63 of 2020 and S.C.No.25 of 2023 within a period of two months from the date of receipt of a copy of this order as per Section 14(3) of the SC/ST(POA)Act,1989 as amended in the year 2016.

(ii) The learned Special Judge is further directed to conduct the trial in the Central Prison, Palayamkottai, Tirunelveli District.



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(iii) The Superintendent of Prison, Central Prison, Palayamkottai, shall provide adequate facilities to conduct the trial in the jail premises.

(iv) The Superintendent of Police, Thoothukudi is also directed to cooperate for the same.

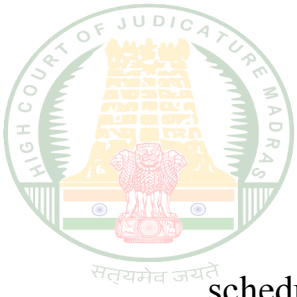
(v) The learned Special Judge is directed to make arrangements to allot any portion of the jail premises to conduct the trial with “observa” glass partition which is specifically designed system of reflectivity and light observation levels that secure the privacy of the observers namely, witnesses.

(vi) The learned Special Judge shall allow maximum number of two advocates for each accused and they shall be allowed to participate in the trial after proper security check up as per the jail norms.

(vii) It is open to the learned Special Judge to allow any of the witnesses to examine through the mode of video conference as per the procedure stated in the Madras High Court Video Conferencing Court Rules, 2020.

(viii) Since the trial Court is already burdened with other pending cases, this Court would suggest that the trial Court shall frame the time

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schedule to conduct and complete the trial on day-to-day basis. It is also suggested that the learned trial Judge can have every sitting in the afternoon in the jail premises.

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NCC : Yes/No

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Internet: Yes/No

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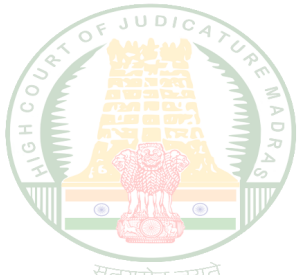
1. The Special Judge,
Special Court for trial of cases under SC/ST (POA) Act,
Thoothukudi.

2. The Superintendent of Police,
Thoothukudi.

3. The Deputy Superintendent of Police,
Thoothukudi Rural,
SIPCOT Police Station,
Thoothukudi.

4. The Superintendent of Prison,
Central Prison,
Palayamkottai.

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5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

6. The Section Officer,
Criminal Records,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

PJL

Judgment made in
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