



CrI.A(MD)No.737 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 29.08.2023

Pronounced on : 22.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CrI.A(MD)No.737 of 2023

S.Rajasekaran @ Satta Rajasekar

.. Appellant/Sole Accused

Vs.

1.State through
The Deputy Superintendent of Police,
Bodinayakanur Town Police Station,
Theni District.

2.The Inspector of Police,
Bodinayakanur Town Police Station,
Theni District.

3.Gandhi

.. Respondents

PRAYER: Criminal Appeal filed under Section 14A of the SC/ST (Prevention of Atrocities) Act, 1989, to set aside the order dated 10.08.2023 passed by the learned Special Judge, Special Court for trial of Cases under SC/ST(POA) Act, Theni, in CrI.M.P.No.959 of 2023 and enlarge the appellant on bail in connection with Crime No.256 of 2023 on the file of the 2nd respondent police.



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For Appellant : Mr.S.Ayyanar Prem Kumar

For Respondents : Mr.R.Sivakumar
Government Advocate(Criminal side)
for R1 and R2

: Mr.D.Rajaboopathy
for R3

JUDGMENT

The appellant, who is the sole accused in Crime No.256 of 2023 on the file of the 2nd respondent police filed this appeal challenging the dismissal order of his bail petition dated 10.08.2023 in Crl.M.P.No.959 of 2023 on the file of the learned Special Judge, Special Court for trial of Cases under SC/ST(POA) Act, Theni,

2. The defacto complainant belongs to Scheduled Caste community and he is doing Coolie work. There was a land dispute between the defacto complainant and one Eswaran and Murugesan and the same was pending in O.S.No.103 of 2021 on the file of the learned Sub Judge, Theni. The appellant introduced himself as an advocate and a Press Reporter and he assured to complete the case within a period of two months. On the said false representation the defacto complainant entrusted his case to him. The appellant also received a sum of Rs.



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3,00,000/- towards advocate fee. But he did not appear before the Court

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and hence, the said suit was decreed exparte. After knowing the above fact, the defacto complainant requested him to repay the said fee. But the appellant did not make any repayment, instead, the appellant criminally intimidated the defacto complainant by using his caste name. Therefore, the defacto complainant suffered mental depression and took treatment and then, he filed the complaint before the respondent police. The respondent police registered the case for the alleged offence under Sections 406, 420, 294(b), 506(i) IPC and Sections 3(1)(r), 3(1)(s) and 3(2)(Va) of the SC/ST(POA) Act, 1989.

3. Thereafter, the appellant was arrested on 10.07.2023 and he was in judicial custody. He filed a bail petition before the learned trial Judge in Cr.M.P.No.959 of 2023. The learned trial Judge dismissed the same on 10.08.2023 stating that the petitioner has four previous cases with similar allegation of cheating and he used to fleece money from the poor people introducing himself as a media person and RTI activist. Challenging the same, the appellant filed this criminal appeal.

4. The learned counsel for the appellant submitted that the appellant surrendered as per the order of this Court in Crl.O.P(MD)No.



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12421 of 2023 and he was confined in prison for nearly 50 days. He

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disputed the allegation made in the FIR and also the allegation made in the previous cases. Therefore, he seeks for bail.

5. The learned counsel for the defacto complainant vehemently opposed the bail petition stating that the appellant with the moniker S.Rajasekar @ “Satta Rajasekar”, cheated number of people by introducing himself as an advocate and Press Reporter. He received a sum of Rs.3,00,000/- from the defacto complainant to contest the case by stating that he is an advocate, but he had not even filed vakalat and did not appear before the Court and hence, the said suit was decreed as exparte. In all fairness, he is bound to repay the said fee on the bonafide request made by the defacto complainant. But he did not repay the amount and criminally intimidated the defacto complainant by using his caste name. The said act of the appellant deserves no sympathy inspite of the incarceration for nearly 50 days. He further expressed his apprehension of tampering of the witnesses. Hence, he seeks for dismissal of this appeal.



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6. The learned Government Advocate(Criminal side) reiterated the

above submission made by the learned counsel for the defacto complainant and specifically submitted that the appellant cheated the public as if he completed the law degree by displaying the Board as “Advocate” running office as “Law Foundation” and also he acted as an RTI activist in the name of “*சட்ட ராஜ்ஜேசகர்*” and also opened his account in the social media and cheated the public. The appellant also has a number of previous cases of similar nature. In the said circumstances, there is a serious threat to the witnesses. Therefore, he seeks for dismissal of this appeal.

7. This Court has considered the rival submissions made by both parties and perused the records and also the allegation made against the appellant.

8. Admittedly, the appellant is not an advocate. He is alleged to have received a sum of Rs.3,00,000/- from the defacto complainant as a legal fee to contest the case in O.S.No.103 of 2021 pending on the file of Sub Court, Theni and he did not appear before the Court and hence, the case ended in exparte order being passed. Therefore, the defacto



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complainant made a request to repay the amount. But the appellant,

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without making the payment, criminally intimidated the defacto complainant by using his caste name. Abusing the defacto complainant's caste name in the public place is a serious offence. He received the fee by claiming himself to be an Advocate is another serious offence. His act of refusal to repay the fee is also a serious consequential offence. From the inception knowing that he is not an advocate, he got the brief along with legal fee from the poor defacto complainant with deceptive intention and not appeared before the Court which resulted in exparte decree. He further made a threat to the defacto complainant without making the repayment by using his caste name is another grave offence. He not only cheated the defacto complainant, but he continuously indulged in such activities against others also. He has four previous cases in similar nature. Further fraudulently presenting himself before the public as “சட்ட ராஜசேகர்”, “கூமாபட்டி நுகர்வோர் மைய கிளைத்தலைவர்” is clearly revealed by the following documents:



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செஞ்சி கோட்டையில் தென்றல் அறக்கட்டளை நடத்தும்

தகவல் அறியும் உரிமை சட்டம் மாபெரும் பயிற்சி வகுப்பு

நாள் : 07-05-2023 ஞாயிற்றுக்கிழமை
காலை 9-00 மணி முதல் மாலை 5-00 மணி வரை
இடம் : A.G. திருமண மண்டபம், காந்தி பணர், செஞ்சி.

தலைமை : திரு. RA.காமராஜ் அவர்கள்
 மு.ஊராட்சி மன்றத்தலைவர், நெகரா
 விழுப்பம் மாவட்ட M.G.R மன்ற இணைப்பெயலாளர், அ.இ.அ.தி.மு.க
 RAK அக்வா மினர்ல் வாட்டர் கம்பெனி

சிறப்பு அழைப்பாளர் : திரு. பாலு ஜயா அவர்கள் (கூலோர் வட்டம்)
பயிற்சி அளிப்பவர்கள் : சட்ட ஆர்வலர் திரு. மதுரை ஹக்கீம், MBA.,
 (375 க்கும் மேற்பட்ட R.T.I பயிற்சி வகுப்புகள் அளித்தவர்)
 சட்ட ஆர்வலர் திரு. R.T.I. கேட்டர் S.P. தியாகராஜன்
 சட்ட ஆலோசகர் திரு. ராஜசேகரன், B.A.L.L.B., (வழக்கறிஞர்)
 சட்டஆர்வலர் திரு. K.முருகேசன் (Common Man Youtube Channel)

நன்றியுரை : திரு. K.லோகநாதன், M.E.,L.L.B.,
 பயிற்சி அளிக்கப்படும் தலைப்புகள்

- ☛ தகவல் பெறும் உரிமைச் சட்டத்தின் வரலாறு மற்றும் அனைத்து பிரிவுகள்
- ☛ தகவல் பெறும் உரிமைச் சட்டத்தின் மனு எழுதும் முறைகள் மற்றும் மேல் முறையீடு வழிமுறைகள்
- ☛ தகவல் பெறும் உரிமைச் சட்டத்தின் மூலம் தகவல்களை எப்படி பெறுவது பெற்ற தகவல்களை எப்படி பயன்படுத்துவது என்பதனை சிறப்பாக புஜிட்டல் டிராக்டர் கொண்டு துல்லியமாக பயிற்சி அளிக்க உள்ளார்கள்.
- ☛ இந்தியர்கள் அனைவரும் அறிய வேண்டிய சட்டங்கள்.
- ☛ பொதுமக்களும், சமூகஆர்வலர்களும் தவறாமல்கலந்துகொள்ள வேண்டுமாய் அன்புடன் கேட்டுக்கொள்கின்றோம்.

குறிப்பு :
மூன்பதிவு செய்யவர்கள் மட்டும் பயிற்சி வகுப்பில் கலந்து கொள்ள முடியும்.
நிகழ்வில் பாங்கேறிக் தொடர்பு கொள்ளவும்
கைபேசி எண் : 6383515774



**செஞ்சி கோட்டையில்
தென்றல் அறக்கட்டளை**

ம.க.த.த.ம்

**தகவல் பெறும் உரிமை சட்டம்
மாபெரும் பயிற்சி வகுப்பு**

நாள் : 07.05.2023 ஞாயிறாதிருள் நேரம் : காலை 9.30 மணி முதல் மாலை 5.00 மணி வரை
இடம் : A0 திருமண மண்டபம், வாரி யார், செஞ்சி.

தலைவர்:
RA.காமராஜ்
ஓ.பி.பி.சி. பதிவுகாணம், சட்டமன்றம்.
பிழிதல் மலர், 508 வந்த திருமணமலர் - ச.சி.ச.சி.மு.க.
SAS சிவன் சிவன் மலர், சிவன்.

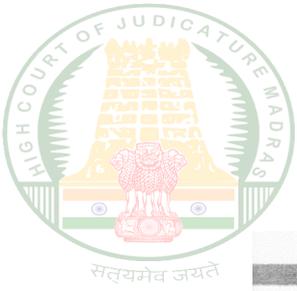
குழு அங்கத்தினர்
சி.பாலு ஜயா (பதிவு செய்தவர்)
சுற்று அங்கத்தினர்
சி.மதுரை K.ஹக்கிம் M.B.A.,
(378 ஆம் தெருள், தாண்டி தெருள் K.சீமா ஸ்ட். (பதிவு செய்தவர் சிவன்))

சி. K.முருகேசன்
COMMON MAN YOUTUBE CHENNAI

சி. RTI கேப்டன் S.P.தீயாகராஜன்
பதிவு செய்தவர்: **சி. சட்ட ராஜசேகரன்** B.A.L.L.B.,
சுற்று அங்கத்தினர்
சி. K.லோகநாதன் M.L.L.B.,

இப்பயிற்சியில் வாதுமக்களும், சமூக ஆர்வலர்களும்
தவறாமல் கலந்து கொள்ள வேண்டுமாய் அன்புடன் அழைக்கின்றோம்.

தொடர்புக்கு : 6383515774



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சட்டம் அறிவோம்! சாதனை படைப்போம்!

விதைகள் மக்கள் மேம்பாட்டு அறக்கட்டளை

92/4w, வினோபாஜி காலனி 2வது தெரு, போதி நாயகனூர்.

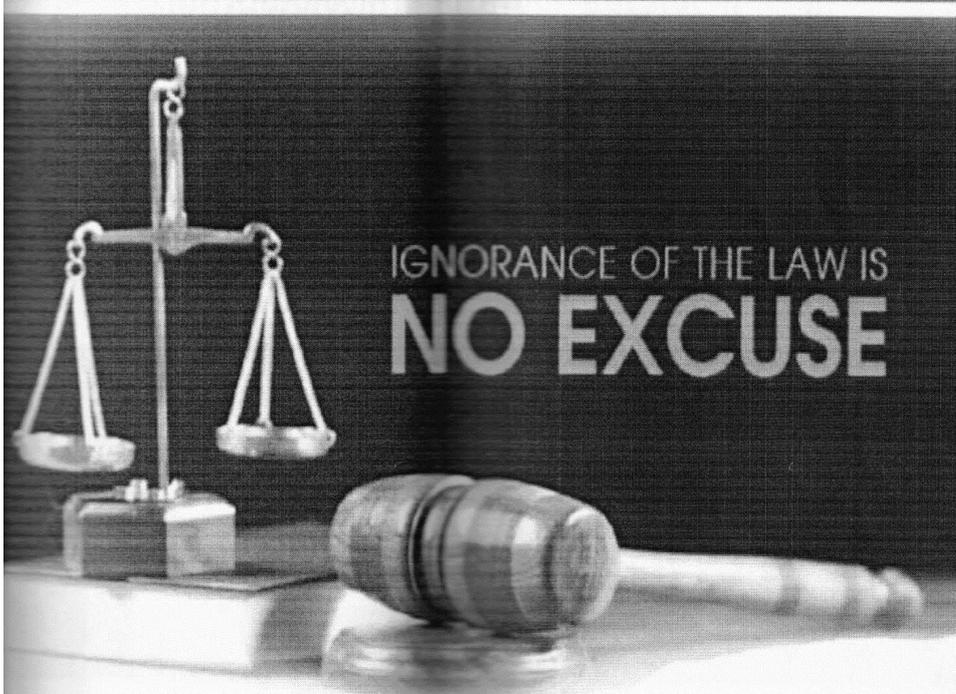
செப்டம்பர் -15ல்

உலக ஜனநாயக தினத்தை
முன்னிட்டு
சட்டப்பயிற்சி வகுப்பு
சட்ட.ராஜசேகரன்
B.A.,L.L.B.,D.M.E.,P.D.Au.E.,PG.D.C.A.,

நாள் : 15.09.2022 - மாலை 5 - 8
இடம் : சங்கரநாராயணன் நினைவு பொதுநூலகம்,
வினோபாஜி காலனி, போதி நாயகனூர்.

ஒருங்கிணைப்பு :-
கனவர். பொன்.சுப.பாண்டிக்குமார் திரு.தர்மராஜ் DME.,
M.A.,B.Ed.,M.Phil.,Ph.D., மேலாளர், விதைகள் அறக்கட்டளை
புலவர், விதைகள் மக்கள் மேம்பாட்டு அறக்கட்டளை

சட்டம் அறியாமை மன்னிக்கக்கூடியதல்ல
IGNORANCE OF LAW IS NO EXCUSE





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9. From the above circumstances, period of incarceration is not a ground to grant bail in this case. In the interest of the society, his bail petition was rightly rejected by the learned trial Judge.

10. In the facts and circumstances of the case, this Court follows the principles laid down by the Hon'ble Supreme Court in the following judgments:

(i) In the case ***State of U.P. Through CBI Vs. Madhumani Tripathi reported in 2005 (8) SCC 21***, the relevant portion is extracted here under:

“18. It is well settled that the matters to be considered in an application for bail are (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of the accused absconding or fleeing, if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with; and (viii) danger, of course, of justice being thwarted by grant of bail[see Prahlad Singh Bhati v. NCT, Delhi [(2001) 4 SCC 280] and Gurcharan Singh v.



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State (Delhi Admn.)[(1978) 1 SCC 118 : 1978 SCC (Cri) 41 : AIR 1978 SC 179] J. While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused.

*(ii) In the case of **Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwana**, reported in (2021) 6 SCC 230:*

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.

*(iii) In the case of **Jaibunisha v. Meharban**, reported in (2022) 5 SCC 465:*

21.6. Another factor which should guide the



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courts' decision in deciding a bail application is the period of custody. However, as noted in Ash Mohammad v. Shiv Raj Singh [Ash Mohammad v. Shiv Raj Singh, (2012) 9 SCC 446 : (2012) 3 SCC (Cri) 1172], 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.

(iv) In the case of *Mahipal V. Rajesh Kumar*, reported in (2020) 2 SCC 118:

The provision for being released on bail draws an appropriate balance between public interest in the administration of justice and the protection of individual liberty pending adjudication of the case. However, the grant of bail is to be secured within the bounds of the law and in compliance with the conditions laid down by this Court. It is for this reason that a court must balance numerous factors that guide the exercise of the discretionary power to grant bail on a case-by-case basis.



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WEB COPY (v) In the case of Naveen Singh v. State of U.P., reported in (2021) 6 SCC 191:

12.5. Merely because the charge-sheet is filed is no ground to release the accused on bail. The submission on behalf of the accused that as the record is now in the court's custody there is no chance of tampering, is concerned, the allegation against the respondent-accused is of tampering/forging/manipulating the court record which was in the custody of the court. Seriousness of the offence is one of the relevant considerations while considering the grant of bail, which has not been considered at all by the High Court while releasing Respondent 2-accused on bail.

(vi) In the case of Sudha Singh v. State of U.P., reported in (2021) 4 SCC:

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



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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.”

11. In the result, this Criminal Appeal stands dismissed.

22.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PJJ

To

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

2. The Deputy Superintendent of Police,
Bodinayakanur Town Police Station,
Theni District.

3. The Inspector of Police,
Bodinayakanur Town Police Station,
Theni District.

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



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K.K.RAMAKRISHNAN, J.

PJL

Predelivery Judgment made in
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