

(2024) 02 RAJ CK 0133

In the Rajasthan High Court

Case No : Criminal Appeal (SB) No. 1357, 1541 Of 2023

Maan Singh @ Maniya And Others

APPELLANT

Vs

State Of Rajasthan And Others

RESPONDENT

Date of Decision : 26-02-2024

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(2)(v), 14A
Indian Penal Code, 1860 — Section 34, 201, 302
Code Of Criminal Procedure, 1973 — Section 161, 439

Citation : (2024) 02 RAJ CK 0133

Hon'ble Judges : Kuldeep Mathur, J

Bench : Single Bench

Advocate : Devendra Mahlana, KR Saharan, Md. Javed Gauri, Om Rajpurohit

Final Decision : Allowed

Judgement

Kuldeep Mathur, J

The instant appeals have been filed under Section 14A SC/ST (Prevention of Atrocities) Act on behalf of the appellants, who are in custody in connection with F.I.R. No.187/2020, registered at Police Station Taranagar, District Churu, for the offences under Sections 302, 201/34 of IPC and Section 3(2)(v) of the SC and ST (Prevention of Atrocities) Act against the order dated 30.06.2023 passed by the learned Special Judge Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act Cases, Churu whereby, the appeal preferred under Section 439 Cr.P.C. on behalf of the appellants was rejected. This is the second appeal on behalf the appellant- Maan Singh @ Maniya S/o Shri Chhotu Ram.

The Ist appeal was dismissed as not pressed by a Co-ordinate Bench of this Court vide order dated 19.07.2022.

Heard learned counsel for the appellants and the learned Public Prosecutor as well as the learned counsel for the complainant. Perused the material available

on record.

Learned counsel for the appellants vehemently contended that the appellants have been falsely implicated in the present case. Learned counsel further contended that there is no evidence worth the name, on record of the case to connect the appellants with the alleged crime of murder of the complainant's son namely 'Rampratap'. Learned counsel submitted that an FIR No.0187/2020 was lodged on the basis of a written report filed by the complainant on 17.07.2020, alleging therein that on 16.07.2020 in the evening at about 07:00 PM, co-accused Ajay Singh came to his house and at around 09:30 PM took away his son i.e. Rampratap with him; thereafter, Rampratap did not return home. On the next day, the complainant reached the house of Ajay Singh and on being asked, they refused to divulge any information regarding the whereabouts of Ajay Singh and Rampratap. Subsequently, a search was made and the dead body of the deceased Rampratap was found in a well (kund).

Learned counsel further submitted that in order to establish the commission of offence on the basis of the last seen theory, the statements of one Satpal were got recorded under Section 161 Cr.P.C, about four days after the incident, wherein, he stated that on 16.07.2020, he had seen the deceased Rampratap in the company of the present appellants and co-accused Ajay Singh who were arguing with each other at the top of their voices.

Learned counsel also contended that there was no motive for the appellants to murder the deceased. In order to support this argument, drawing attention of the Court towards the postmortem report of the deceased, learned counsel submitted that the Medical Board has not given any specific findings that the deceased was strangled or suffocated and has rather found that no ligature mark or signs of throttling were found on his neck.

Lastly, on the strength of these arguments, learned counsel thus implored that since there is no direct evidence on record to connect the appellants to the alleged crime, therefore, the appellants who are in judicial custody for more than three years and seven months, deserve to be enlarged on bail.

Per contra, learned Public Prosecutor and learned counsel for the complainant have vehemently opposed the appeal and have submitted that there is sufficient evidence available on record of the case to indicate that the appellants have murdered the deceased- Rampratap.

Learned counsel submitted that the statements of the complainant (PW.6) and Satpal (PW.7) are sufficient to show that the deceased was last seen in the company of the present appellants and co-accused Ajay Singh. It was further contended that the place of the crime has been identified at the instance of the appellants and the scarf (Gamcha) which was allegedly used for strangulation has also been recovered at the instance of the present appellant- Suresh.

Learned counsel submitted that the fact that the deceased was last seen in the

company of the present appellants is a strong circumstance warranting, the rejection of the present appeal.

Having considered the rival submissions, facts and circumstances of the case, this Court prima facie finds that merely because of some reasons, the parties were not on good terms, that itself is not sufficient to be accepted as a motive for the appellants to have committed the alleged crime.

In the prima facie opinion of this Court there is no direct evidence available on record to connect the appellants with the alleged crime and whether or not the pertinent recovery of scarf (Gamcha) at the instance of the appellants and the evidence of last seen can be treated as sufficient evidence for holding the appellants guilty, would be for the learned trial court to decide. Any comment on the evidence by this Court at this stage may prejudice the trial.

This Court also prima facie finds that the appellants are in judicial custody for more than three years and seven months and the prosecution has not shown any apprehension of the present appellants influencing the prosecution witnesses. Thus, without expressing any opinion on merits/demerits of the case, this Court is inclined to enlarge the appellants on bail.

Consequently, the present appeals are allowed. It is ordered that the accused-appellants (I) Maan Singh @ Maniya S/o Shri Chhotu Ram and (ii) Suresh S/o Fateh Singh, arrested in connection with F.I.R. No.187/2020, registered at Police Station Taranagar, District Churu, shall be released on bail, if not wanted in any other case, provided he furnishes a personal bond of Rs.50,000/- and two sureties of Rs.25,000/- each, to the satisfaction of learned trial court, for their appearance before that court on each & every date of hearing and whenever called upon to do so till completion of the trial.