
(2014) 02 KAR CK 0379
In the Karnataka High Court
Case No : Crl. Petition No. 200087/2014

Mahetab, Jabbar Baig and Ahmed Baig	APPELLANT
Vs	
The State	RESPONDENT

Date of Decision : 14-02-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 302, 307, 341

Citation : (2014) 02 KAR CK 0379

Hon'ble Judges : B.V. Pinto, J

Bench : Single Bench

Advocate : Ustad Sadat Hussain, Advocate for the Appellant; Sanjay A. Patil, Addl. SPP, Advocate for the Respondent

Final Decision : Allowed

Judgement

B.V. Pinto, J.—This petition is filed seeking bail in Crime No. 408/2013 of Bhalki Town police station, registered on 30.11.2013 for the offences under Sections 341 and 307 of IPC.

2. It is stated that the injured Irfan has succumbed to the injuries in the hospital and an offence u/s 302 of IPC is added to the above FIR subsequently. It is the case of the complainant -- Abdul Waheed that his son Irfan had gone to the field on 30.11.2013 at about 7.20 a.m. for collecting the vegetables to be sent to the market. At about 7.45 a.m. the complainant went to the fields and since he could not find his son, he was searching for his son. He heard some sound from the neighbouring burial ground and when he went near, his son was found fallen on the ground with the injuries on his forehead. He was bleeding through the nose and there were two fevi quick covers near the injured person and the fevi quick was found in the mouth of injured. A stone was lying nearby and the said stone was stained with blood. Thereafter with the help of neighbouring people, the complainant took the injured in a motorcycle to the Bhalki Government Hospital and after giving him first aid removed him to the Government Hospital, Bidar. The Doctors of Bidar hospital advised him to take to the injured Hyderabad. He

sent the injured to Hyderabad from Bidar and came back to his house and lodged a complaint. The police have registered a case against unknown persons and investigation is commenced. It is further seen from the investigation papers that on 25.12.2013, three persons by name Abdul Mazid, Syed Gouse and Dhanraj were examined by the police during the investigation and they are cited as eyewitnesses to the incident. In their statement, it is recorded that on the date of incident they had seen the petitioners and the deceased from about 200 ft. away from inside the burial ground and that the petitioners had assaulted the deceased on the ground that the deceased was behaving with the wife of petitioner No. 1 immorally. It is also stated in the said statement that one of the accused lifted a stone and put it on the head of Irfan and thereafter all the accused left the place. Since they did not intervene with the affairs of the complainant's family, they went to work in Anandwadi village and came to the house in the evening. On the next day they came to know that the injured has succumbed to the injuries.

3. Sri Ustad Sadat Hussain, learned counsel for the petitioners submits that the so-called eyewitnesses were very much known to the complainant and the injured and that their conduct of leaving the village and of keeping quiet for 25 days even after being eyewitnesses is an unnatural conduct. There was no enmity between the petitioners and the said witnesses and therefore the investigating officer has planted these three eyewitnesses 25 days after the incident. Nothing prevented them from either approaching the complainant or the police immediately after they came to know that the injured Irfan has succumbed to the injuries. He also submits that no explanation is given in the statement of these witnesses as to why they kept quiet for 25 days even after knowing that the deceased had died. Hence, he submits that the petitioners may be admitted to bail since they are in custody.

4. Sri Sanjay A. Patil, learned Addl. SPP on the other hand submits that these eyewitnesses had gone to their work thinking that they did not want to interfere with the personal affairs of the complainant and his family with the family of accused. Hence, there is no reasonable explanation forthcoming for not informing the police or the complainant regarding their eyewitness account of the incident.

5. It is seen that witnesses are the residents of the same village as that of the complainant as well as accused. There is no enmity between the witnesses and the complainant or between the witnesses and the accused. They have come out with the eyewitness account after 25 days of the incident though they are the eyewitnesses to the alleged ghastly incident. Therefore, without expressing any further opinion regarding the credentials or otherwise of the witnesses which may hamper either the prosecution or the defence, I am of the view that the petitioners may be admitted to bail. Hence, the following order is passed:

ORDER

(i) The petition is allowed. Petitioners are directed to be released on bail on their

executing bond for a sum of Rs. 25,000/- each with one surety for the like sum to the satisfaction of the learned Magistrate;

(ii) Petitioners shall not tamper with the prosecution witnesses nor interfere with the complainant and his family members:

(iii) Petitioners shall appear before the police station once in a week till the investigation is complete thereafter once in a month for a period of three months.