

(2013) 06 KAR CK 0136
In the Karnataka High Court
Case No : Criminal Petition No. 15254 of 2013

Ningu 2 Ninganna and Viju

APPELLANT

Vs

The State of Karnataka

RESPONDENT

Date of Decision : 24-06-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 439

Penal Code, 1860 (IPC) — Section 302

Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(1)(x)

Citation : (2013) 06 KAR CK 0136

Hon'ble Judges : Ravi Malimath, J

Bench : Single Bench

Advocate : Shivanand V. Pattanashetti and Sri. Sharanappa Mattur, for the Appellant; Sanjay Patil, Addl. Spp., for the Respondent

Final Decision : Dismissed

Judgement

Ravi Malimath, J.—The case of the prosecution is that the complainant is the sister of the deceased. She lodged a complainant before the Sindagi police, stating that her sister was a Devadasi. She had a son aged about 15 years. She left home on 05.06.2012 and did not return. On 06.06.2012 at about 1.00 p.m. one Basavaraj Doddamani telephoned the complainant that an unidentified dead body of a female was lying near the land of one Manoj. She went there and identified the body. Consequently, a case was registered in Crime No. 131/2012 before the Sindagi police station for the offence punishable u/s 302 of the Indian Penal Code and thereafter, u/s 3(1)(x) of the Scheduled Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989. The petitioners were arrested. They filed a petition u/s 439 of Cr.P.C. seeing bail before the Sessions Court which was rejected. Hence, the petition by Accused No. 5 in CrI. P. No. 15371/2013 and by Accused Nos. 2 and 4 in CrI. P. No. 15254/2013.

2. Under these circumstances, heard both the counsels together and disposed off by this common order.

3. The learned counsel for the petitioners submits that the case made out by the prosecution is on the basis of the voluntary statements made by Accused Nos. 2 to 4. That such evidence is not admissible. Therefore, to retain the petitioners in custody purely on this ground is incorrect. There are no eyewitnesses to the incident. Hence, the petitioners be released on bail.

4. On the other hand, the learned Addl. SPP submits that there is substantial material against the petitioners. That the entire facts and circumstances of the case prove the guilt of the petitioners as alleged against them. Accused No. 1 had sought for bail before this Court in Crl. P. No. 15184/2013 wherein by the order dated 20.02.2013, the learned Single Judge has dismissed the same. Hence, he pleads that these petitions also be rejected.

5. On hearing learned counsels, I am of the considered view that it is not a fit case to grant bail. The case sought to be made out by the prosecution is that accused No. 1 took the deceased to the land and had sexual intercourse with her. The other accused came there, immobilized with her own sari, assaulted her with stones and took away her jewellery as well as her cell phone. They came to Sindagi and consumed alcohol. On these facts, the petition filed by accused No. 5 was considered in detail. The learned Single Judge of this Court has considered, held that there was sufficient material to implicate the accused. Under these circumstances, it is improper to take a different view in this matter wherein the learned Single Judge has already held with regard to the facts and circumstances of the case. In the present case, it is improper to hold that there was no case made out against the petitioners.

6. Even on the merits of the case, it could be seen that there is substantial material brought out by the prosecution to bring home the guilt of the accused. The manner in which the deceased was done to death itself speaks volumes about the acts committed by each of the accused. The accused had sex with the deceased, strangled her and smashed her face with a stone. The actions are ghastly. Hence, for the aforesaid reasons they are not entitled to be released on bail. For the aforesaid reasons, the petitions being devoid of merits are dismissed.