
(2011) 02 KAR CK 0109

In the Karnataka High Court

Case No : Criminal Petition No. 25 of 2011

Rangaswamy A/o late Puttaveeraiah

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 15-02-2011

Acts Referred:

Arms Act, 1959 — Section 25, 27

Penal Code, 1860 (IPC) — Section 120 (B), 143, 147, 148, 149

Citation : (2011) 02 KAR CK 0109

Hon'ble Judges : V. Jagannathan, J

Bench : Single Bench

Advocate : H.C. Hanumaiah and K.S.A. Reddy, in Criminal Petition No. 25/2011 and C.N. Raju, in Criminal Petition No. 622/2011, for the Appellant; P.M. Nawaz, Addl. SPP, for the Respondent

Final Decision : Allowed

Judgement

V. Jagannathan, J.—Both these petitions arise out of the same Cr. No. 281/10 registered by the Hassan town police against the Petitioners and others for offences punishable under Sections 143, 147, 148, 120(B) , 302 r/w 149 of IPC & Sections 25 and 27 of Indian Arms Act.

2. The case of the prosecution is short is that on 26.07.10, when the deceased Afsar Pasha and his friends were sitting on the bench in front of Apoorva Nalapaka Hotel at Hassan, accused persons came numbering 7 to 8 and out of them, one shot at the group which was sitting on the bench and Afsar pasha died. After investigation, it is revealed that the accused wanted to took away the life of one Buyyaswamy and by mistaken identity, Afsar Pasha became the victim.

3. Submission of Sri. H.C. Hanumaiah learned Counsel for the Petitioner in Crl. No. 25/11 is that the Petitioner-Rangaswamy is not involved in the alleged incident and only allegation against him is that he said to have financed the other accused getting the revolver for Rs. 70,000/- and more over, the Petitioner is running a hotel at Mandya and except the said allegation, there are no other

material to connect the Petitioner with the alleged crime in question.

4. As far as the Petitioner-Shivaprasad is concerned, learned Counsel Sri. C.N. Raju, argued that his name was not mentioned by the eyewitnesses namely Harish and Chidanandamurthy in their statements and in place of Shiva, the Petitioner who is Shivaprasad has been added in the charge sheet and more over, there are no overt acts alleged against this Petitioner by the witnesses.

5. Per contra, Sri. P.M. Nawaz, learned Addl. SPP submitted that, name of the Petitioner Shivaprasad finds a place in the remand application and the Petitioner Rangaswamy financed the other accused by giving Rs. 70,000/- to buy the revolver and at the instance of the Petitioner Rangaswamy certain weapons were also recovered.

6. Having thus heard both sides, at this stage, I am of the view that Petitioners can be released on bail, as in respect of Rangaswamy, except the allegation that he lent Rs. 70,000/- to purchase revolver and ammunition, there are no other allegations. So far as the actual incident of shooting Afsar Pasha is concerned, they are directly against accused Nos. 3 to 13. Even in the statement of the eyewitnesses, the names of these Petitioners are not there and overt acts are also not forthcoming.

7. For the above said reasons, both the petitions are allowed and bail is granted to the Petitioners, subject to the following conditions:

(i) Petitioners shall be released on bail on each of them executing a personal bond for a sum of Rs. 25,000/- with. two sureties for the likesum to the satisfaction of the trial court.

(ii) They shall not tamper or attempt to tamper any of the prosecution witnesses.

(iii) They shall not give threat to the prosecution witnesses in any manner.

(iv) They shall not involve themselves in the offence of like nature in future.

(v) They shall attend the court on all dates of hearing without fail.

(vi) They shall mark their attendance before the concerned police station on every Saturday between 10 a.m. and 5 p.m.

The above observations however shall not influence in hearing the case on merits and also even with regard to the accused identification as Shiva or Shivaprasad.