

(2011) 08 KAR CK 0107
In the Karnataka High Court
Case No : Criminal Petition No. 3895 of 2011

Sri. Ravi and Sri. Dharma

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 18-08-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 201, 302

Citation : (2011) 08 KAR CK 0107

Hon'ble Judges : K.N. Keshavanarayana, J

Bench : Single Bench

Advocate : A.M. Balaji and Sri. B.M. Mohan Kumar, for the Appellant; B. Raja Subramanya Bhat, HCGP, for the Respondent

Final Decision : Allowed

Judgement

Mr. Justice K.N. Keshavanarayana

1. An unknown female dead body was found floating in Gokatte of Arasikatte Kavalu, Konanur Hobli, Arakalagud Taluk, by CW. 1-Venkatesh at about 7.00 a.m., on 23.11.2010. Immediately, he lodged a report to that effect before Konanur Police Station, based on which, case in Crime No. 275/2010 for the offences punishable under Sections 302 and 201 of Indian Penal Code came to be registered against unknown persons. Immediately the police went to the place where dead body was lying, fished out the dead body and noticed that it was the dead body of an unknown female aged about 25 to 30 years. They also noticed that the dead body had been tied to a plastic sack containing two big stones and was thrown into the water. The identity of the deceased was not revealed in spite of the best efforts made by the Investigating Officer. Thereafter, inquest was held over the dead body and the dead body was subjected to post mortem examination. The Doctor, who conducted post mortem examination, opined that the death was due to respiratory arrest and she appears to have been died as a result of blunt force trauma to the. body around neck and chest. After obtaining photographs of the dead body and also the seizure of the cloths and other

articles found on the dead body, the dead body was cremated on 27.11.2010.

2. One Raju, son of Channaiah resident of Bemmatti Village, Mallipattana Hobli, Arakalgud Taluk lodged a report before the Sub Inspector of Police, Arakalgud Police Station to the effect that his mother Smt. Halagamma, aged about 62 years, who left the house at 4.00 p.m. on 18.11.2010 has not returned and is missing from that date. After coming to know that an unidentified dead body of a female was found within the jurisdiction of Konanur Police Station, the said Raju visited the Police Station and after seeing the photographs of the dead body as well as the bangles and the clothes seized from the dead body, he identified the deceased as his mother Halagamma. Thereafter, his statement was recorded and during his statement he said to have disclosed that his mother Halagamma was living separately from her sons after the death of her husband; that for the purpose of cultivating the land, she was taking the help of the 1st Petitioner; the 1st Petitioner had taken loan of Rs. 20,000/- from the said Halagamma; that she was insisting the 1st Petitioner to repay the amount of Rs. 20,000/- and in spite of the same, the Petitioner had not repaid the same; therefore, he had expressed strong suspicion about the hand of these Petitioners in the homicidal death of his mother Halagamma. On the basis of such statement, the Petitioners herein were arraigned as accused and later they were apprehended and subjected to judicial custody, and since then, they have been in judicial custody. Their prayer for bail came to be rejected by the learned Sessions Judge, therefore, they are before this Court seeking the relief of bail.

3. It is now reported that after completing investigation, the Investigating Officer has filed charge sheet and the matter has been committed to the Court of Sessions and it is pending in S.C. No. 51/2011 on the file of the Fast Track Court at Arakalgud.

4. The petition is opposed by the Respondent-State.

5. I have heard the Learned Counsel appearing on both sides and perused the records made available.

6. It is the submission of the Learned Counsel for the Petitioners that even the identify of the dead body as that of Halagamma, the mother of Sri. Raju. is in serious doubt inasmuch as the age of the deceased as estimated in the inquest was between 25 to 30 years whereas according to the statement of Sri. Raju, his mother was aged about 62 years. It is also his submission that the dead body was not recognizable as the facial features had completely altered and therefore, the identity of the dead body is highly doubtful, as such, there are no reasonable grounds to believe that the Petitioners are guilty of any of the offences alleged, as such, they are entitled to be enlarged on bail.

7. Perusal of the records prima facie indicate that the police and the panchas during inquest estimated the age of the deceased as between 25 to 30 years. Even the Doctor who conducted post mortem examination has noticed that the dead body is that of an adult (middle age) female. Even according to the

statement of Sri. Raju, his mother Halagamma was aged about 62 years.

8. As noticed supra, there are no direct witnesses to the incident of murder. No doubt, the materials on record prima facie indicate that the person who was found dead in Gokatte has met homicidal death. However, having regard to the materials available on record, at this stage, the identity of the deceased, as Smt. Halagamma. prima facie, appears to be doubtful. of course, facts indicate that there were some monetary transactions between Smt. Halagamma and these Petitioners. Except this, no other circumstances are forthcoming to prima facie indicate the complicity of these Petitioners in the commission of the offences alleged.

9. having regard to the facts and circumstances of the case, I am of the opinion that there are no reasonable grounds to believe that these Petitioners are guilty of the offences punishable with death or life imprisonment, therefore, the Petitioners are entitled to be enlarged on bail.

10. In the result, the petition is allowed. The Petitioners are ordered to be enlarged on bail in S.C. No. 51/2011 on the file of the Fast Track Court at Arakalgud, on each of them executing personal bond for a sum of Rs. 50.000/- (Rupees Fifty Thousand only) with two sureties for the like-sum to the satisfaction of the learned Sessions Judge and also subject to further conditions that,

- i) they shall not tamper or terrorise the prosecution witnesses in any manner;
- ii) they shall appear before the Sessions Court, on all the dates of hearing without fail
- iii) they shall mark their attendance in the Jurisdictional Police Station on every 20th of each calendar month between 10.00 a.m. and 5.00 p.m. till the disposal of the case.