
(2013) 09 AP CK 0082

In the Andhra Pradesh High Court

Case No : Criminal A.M.P. No. 1302 of 2013 in Criminal A. No. 722 of 2013

Velanganti Vedha Raju @ Khanna

APPELLANT

Vs

State of A.P.

RESPONDENT

Date of Decision : 10-09-2013

Acts Referred:

Citation : (2013) 3 ALT(Cri) 81

Hon'ble Judges : Kalyan Jyoti Sengupta, C.J;K.C. Bhanu, J

Bench : Division Bench

Advocate : T. Pradyumna Kumar Reddy, for the Appellant;

Judgement

1. "The petitioner is A-1 in Sessions Case No. 279 of 2012 on the file of the Special Judge for trial of offences under the Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989-cum-VI Additional Metropolitan Sessions Judge, Secunderabad. Vide judgment dated 26-8-2013, the learned Sessions Judge found the petitioner guilty of the offence punishable u/s 302 of the Indian Penal Code, 1860 (for short, "IPC"), accordingly convicted and sentenced to undergo imprisonment for life and to pay fine of Rs. 1,000/- in default to suffer simple imprisonment for three months. Challenging the same, he filed the Criminal Appeal No. 722 of 2012, and along with the Criminal Appeal, he filed the aforesaid petition for suspension of the sentence and releasing him on bail pending disposal of the Criminal Appeal on the ground that there is no prima facie evidence to show that he committed the offence punishable u/s 302 IPC. The Inspector of Police, Lalaguda Police Station filed counter affidavit stating that in only exceptional cases, the sentence of life imprisonment can be suspended and that the petitioner/A-1 does not deserve any indulgence by this court.

2. We have heard Sri T. Pradyumna Kumar Reddy, learned counsel for the petitioner and the learned Public Prosecutor appearing for the State.

3. Learned counsel for the petitioner brought to the notice of this Court with

regard to the evidence available on record against the petitioner/A-1, and contended that the only evidence against the petitioner is that the petitioner was seen running away from the scene of occurrence and that blood stained clothes of the accused and weapon of offence were seized in pursuance of his disclosure statement, and that there is no prima facie evidence to show that he committed the offence punishable u/s 302 IPC and prays to grant bail.

4. On the other hand, learned Public Prosecutor contended that only in exceptional cases, an accused convicted in this type of offences can be granted bail. He relied on a decision in case of Kashmira Singh Vs. The State of Punjab, , wherein it is held thus:

It is, therefore, absolutely essential that the practice which this Court has been following in the past must be reconsidered and so long as this Court is not in a position to hear the appeal of an accused within a reasonable period of time, the Court should ordinarily, unless there are cogent grounds for acting otherwise, release the accused on bail in cases where special leave has been granted to the accused to appeal against his conviction and sentence.

He also relied on a decision in case of Kishori Lal Vs. Rupa and Others, wherein it is held thus:

The mere fact that during the trial, they were granted bail and there was no allegation of misuse of liberty, is really not of much significance. The effect of bail granted during trial loses significance when on completion of trial, the accused persons have been found guilty. The mere fact that during the period when the accused persons were on bail during trial there was no misuse of liberties, does not per se warrant suspension of execution of sentence and grant of bail. What really was necessary to be considered by the High Court is whether reasons existed to suspend the execution of sentence and thereafter grant bail. The High Court does not seem to have kept the correct principle in view.

5. We have perused the aforesaid decisions. No ratio has been laid down by the Hon"ble Supreme Court of India with regard to exercise of power u/s 389 of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C.") to suspend sentence of imprisonment and thereafter the grant bail. In Kishori Lal's case (2 supra), the Hon"ble Supreme Court of India held that in exceptional cases, bail can be granted after recording reasons.

6. As rightly contended by the learned counsel for the petitioner, a perusal of the impugned judgment in the Criminal Appeal would clearly go to show that only two circumstances are relied on by the trial, Court to convict the petitioner of the offence punishable u/s 302 IPC. The first circumstance is that he was running away from the scene of occurrence and that the other one is that blood stained clothes of the accused and weapon of offence were seized in pursuance of his disclosure statement. But, when the incriminating material was sent to the Forensic Science Laboratory, it was found that they did not contain the same blood group of the deceased, except finding human blood on those items.

Therefore, these circumstances, in our considered opinion, prima facie do not prove the guilt of the accused beyond reasonable doubt. The trial court based the conviction prima facie solely on surmises and conjectures. There may be a strong suspicion against the petitioner/A-1 that the crime might have been committed by him. But, suspicion, however strong, cannot take the place of legal proof.

7. Further more, this court can take judicial notice of the fact that the at present, Criminal Appeals of the year 2009 are being taken up for final hearing and it will take not less than 4 to 5 years for taking up final hearing of the present Criminal Appeal. No preference shall be given to the present Criminal Appeal to take up for final hearing on out of turn basis. In the circumstances, we are inclined to suspend the sentence of imprisonment imposed against the petitioner/A-1 and grant bail to him, but, subject to certain conditions.

8. Therefore, sentence of imprisonment alone, imposed against the petitioner/A-1 in Sessions Case No. 279 of 2012 on the file of the Special Judge for trial of offences under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989-cum-VI Additional Metropolitan Sessions Judge, Secunderabad vide judgment dated 26-8-2013, is suspended pending disposal of the Criminal Appeal and the petitioner is ordered to be released on bail on his executing a personal bond for a sum of Rs. 20,000/- (Rupees twenty thousand only) with two sureties each for the like sum to the satisfaction of the X Additional Chief Metropolitan Magistrate, Secunderabad, with the following conditions. (a) that he shall not leave jurisdiction of the trial Court;

(b) that he shall report to the police station concerned once in a week i.e., on Sunday, between 10.00 a.m. to 5.00 p.m.,

If the petitioner fails to comply with any one of the aforesaid conditions, the prosecution is at liberty to approach this court for cancellation of the bail.

Accordingly, the petition is allowed. However, observation, if any, made in this order is only for the purpose of disposal of this petition and the same shall not be construed as a finding of this Court while disposing of the Criminal Appeal.