

H. Basha Vs. The State

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Court : Karnataka

Decided On : Sep-22-2014

Judge : R.B. Budihal

Appeal No. : Criminal Petition No.3173 of 2014

Appellant : H. Basha

Respondent : The State

Judgement :

(Prayer: This CrI.P Is Filed U/S.439 Cr.P.C By The Advocate For The Petitioner Praying That This Hon'ble Court May Be Pleased To Release The Petitioner On Bail In Crime No.37/14 Of Harapanahalli Police Station, Davanagere District For The Offence P/U/Sec 304(B) R/W 34 Of Ipc. The I Addl.District And Sj, Davanagere Has Dismissed The Bail Application In CrI.Misc.No.316/2014 On 1.4.2014.)

1. This is a petition filed by the petitioners - accused No.1 under Section 439 of Cr.P.C. seeking their release on bail of the offence punishable under Section 498A, 304B read with Sec. 34 of IPC, registered in the respondent - Police Station Crime No.37/2014.

2. Heard the arguments of the learned counsel appearing for the petitioner - accused No.1 and the learned Government Pleader for the respondent-State.

3. The learned counsel for the petitioner during the course of arguments submitted that looking to the averments made in the complaint there is mention that the petitioner and his mother told the Complainant and his family members that they need not pay any dowry and the bride is given in marriage, that is enough. Hence, learned counsel made the submission that this statement in the complaint, prima facie, goes to show that at the time of marriage petitioner and his mother have not insisted the Complainant and their family members to bring dowry either in the form of gold or cash. Hence, he submitted that the statement that she has been harassed in connection with bringing of the dowry amount of Rs.50,000/- cannot be accepted at all. He made the submission that the immediate cause for the deceased to commit suicide is that the petitioner and his mother have refused to send her to the function. Because of that reason as she was very sensitive might have committed suicide. But it is not because of the dowry harassment. He also made the submission that accused No.2 has already been granted bail by the order of this court. Hence, by imposing reasonable condition petitioner may be enlarged on bail.

4. As against this the learned Government Pleader during the course of his arguments submits looking to the complaint averments as well as statement of all the witnesses, whose statement has been recorded by the Investigating Officer during investigation, have clearly stated that petitioner and his mother were insisting deceased to bring dowry amount and they were giving ill-treatment to her in that connection. He also made submission that the death has taken place within a span of 8 months from the date of marriage when she is leading life in the house of the petitioner - accused No.1. He submitted that prosecution material, prima facie, goes to show that commission of alleged offence by the present petitioner and hence petitioner is not entitled to be granted bail.

5. I have perused the averments made in the bail petition, FIR, complaint and order passed by the Lower Court on the bail application and the other materials produced in the case so also the order passed by this court in respect of accused No.2-mother.

6. Looking to the complaint averments though it is mentioned in the complaint that the present petitioner and his mother told the complaint and other members of his family that they need not to pay dowry at the time of marriage but further averment in the complaint goes to show that one month after the marriage the petitioner and his mother started demanding Rs.50,000/- as dowry amount from her and in that connection they were giving ill-treatment and harassment both physical and mental. They were also suspecting her that she is not good and present petitioner was threatening her that he is going to marry another lady. About these aspects the deceased used to inform the Complainant.

7. It is true as submitted by the learned counsel for petitioner that another reason is also mentioned that when the petitioner and his mother refused to send her to the function that is also a reason mentioned in the complaint. Looking to the statement of the witnesses they have stated about the demand for dowry and the harassment meted out to the deceased by the petitioner and his mother. Therefore, when the material has been placed by the prosecution by way of statement of witnesses, which prima facie goes to show about ill-treatment and harassment and the death has taken place within span of 8 months from the date of marriage in the house of the present petitioner and there is also material that immediately prior to her death she was subjected to ill-treatment and harassment only on the ground that at the time of marriage they told them that they need not give dowry, the entire prosecution material cannot be ignored by the Court.

8. I have also perused the order passed by this court in respect of accused No.2 - mother of the present petitioner, wherein it has been observed by this court that the petitioner is a woman and aged about 58 years. It is also observed by this court that even with regard to ill-treatment and harassment, there is little material on record to indicate about the harassment meted out to the deceased. No doubt the court has observed that immediate cause is that she was refused to send the deceased to the function. Therefore, looking to these material on record so far as the petitioner is concerned, this is not a fit case to exercise the discretion in favour of the petitioner.

9. With these observations the bail petition is rejected.

