

Dhananjay Vs. State of Maharashtra

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Court : Mumbai

Decided On : Jul-31-2014

Judge : M.T. Joshi

Appeal No. : Criminal Application No. 3612 of 2014 & 3603 of 2014

Appellant : Dhananjay

Respondent : State of Maharashtra

Judgement :

Oral Order:

1. Heard both sides.

2. In both the present applications, the applicants, who were arrested in Crime No.9/2014, registered with Patoda Police Station, District Beed, for the offences punishable under section 302, 201 read with section 34 of the I.P. Code and under section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, out of which now the Sessions Case No.71/2014 is pending on the file of Sessions Judge, Beed, are seeking their release on bail.

3. The submissions of both sides and the record would show that on 15th January, 2014, deceased Shrimant Subhash Pawar has died in the Primary Health Centre at Patoda. The statements of the Medical Officer as well as compounder would show that some unknown persons had brought him there with information that they

themselves had beaten him as he had attempted to commit the theft in the Ginning and Pressing Mill of the father of the present applicant Vijaysing @ Bala Ramkrushna Bangar i.e. the applicant in Criminal Application No.3603/2014. The statement of Lokesh i.e. cousin of the deceased would show that he operates a tea stall opposite of the Primary Health Centre and in the night, the present applicant Vijaysing @ Bala Ramkrushna Bangar alongwith certain co-accused came there and they asked the witness as to whether he knew the said deceased who was injured at that time. The witness could identify him as his own cousin i.e. deceased Shrimant and Vijaysing @ Bala Ramkrushna Bangar as well as co-accused told him that they had caught the deceased red-handed while committing the theft at the milk dairy and they had beaten him. Later on the deceased has died.

4. Initially, the complaint came to be filed on 15th January, 2014 by the father of the deceased on the basis of the information received by him that some unknown persons had thrown away the dead-body of the deceased in the premises of the Primary Health Centre and fled away.

5. The post-mortem examination note would show that the deceased had multiple abrasions over the shoulder, back, both thighs, hips and elbows, there were rope marks over his ankles and contusions over the shoulders, upper limb, whole back, on 4th to 13th ribs, anterior aspect of both legs and 3 x 1 cm. Lacerated wound over left occipital region.

6. The learned counsel for the applicants submitted that the entire case is based on so called extra-judicial confession said to have been made by applicant Vijaysing @ Bala Ramkrushna Bangar and co-accused to Lokesh i.e. the cousin of the deceased. Surprisingly, however, though the said witness is cousin of the deceased, the FIR filed earlier by the father of the deceased would not show that this witness has any time informed the father of the deceased about the incident that had occurred in the night of the incident. On the other hand, in the very same complaint, the father of the deceased has narrated the narration made by the father of the said witness - Lokesh that they came to know that some unknown persons have thrown the dead-body of the deceased in the premises of the

Primary Health Centre. The statement of father of Lokesh, namely, Sopan Balaram, however, surprisingly names the applicant Vijaysing.

7. The earlier applications filed by the present applicants were permitted to be withdrawn as Chemical Analyzer's reports were yet to be reached. Now, the C.A. Reports received reveal that from the blood stains found on the clothes of the present applicant - Dhananjay s/o Sudam Adagale, the blood group could not be identified.

Mr. Shirish Gupte, learned Senior Counsel, appearing on behalf of the applicant in Criminal Application No.3612/2014, submitted that in fact, the blood stains have been found on the clothes of one of the co-accused Anand which were of "A" group, as were found in chemical analysis. The blood group of the deceased was also "A". However, said co-accused Anand has been already released on bail by this court vide order dated 29th April, 2014 passed in Criminal Application No.2126/2014 (Exhibit-E) to present Criminal application No.3603/2014. Both the learned Senior Counsel further submitted that the Medical Officer as well as the compounder, however, in the test identification parade, did not identify the present applicants, as the same persons who had allegedly brought the deceased in injured condition in the Primary Health Centre. In the circumstances, learned Senior Counsel submitted that both the applicants be released on bail.

8. The learned A.P.P. opposed the applications. He submitted that the evidence on record would clearly show that the present applicants had beaten the deceased mercilessly on the suspicion that he had committed certain theft in the premises of the milk dairy and/or in the factory premises. The statement of the cousin of the deceased would show that there is extra-judicial confession and thus, there is strong prima facie case against the present applicants.

9. In my view, finding that the case is based on extra-judicial confession, which is recorded in the background as detailed supra and further finding that the investigation is complete, both the applicants can very well be released on bail, on certain conditions. Hence, the following order:-

10. Both applicants - Vijaysing @ Bala s/o Ramkrushna Bangar (in Cri. Application No.3603/2014) and Dhananjay s/o Sudam Adagale (in Cri. Application No.3612/2014) be released on bail in Crime No.9/2014, registered with Patoda Police Station, District Beed, for the offences punishable under section 302, 201 read with section 34 of the I.P. Code and under section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, on their executing P.R. bond in the sum of Rs.30,000/- each and also upon furnishing surety each in the like amount.

11. Both the applicants shall not enter the territorial limits of Taluka Patoda for a period of two years or till the trial is concluded, whichever occurs earlier, without prior permission of the concerned Sessions Court.

12. Both the applications are accordingly allowed and disposed of.

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