

Manjunath Vs. State of Karnataka

Manjunath Vs. State of Karnataka

SooperKanoon Citation : sooperkanoon.com/1177940

Court : Karnataka Dharwad

Decided On : Jun-02-2015

Judge : G. Narendar

Appeal No. : Criminal Procedure No. 100599 of 2015

Appellant : Manjunath

Respondent : State of Karnataka

Judgement :

1. The petitioner before this Court is arrayed as accused in Crime No. 12 of 2015 registered for the offences punishable under Sections 498-A and 304-B of Indian Penal Code, 1860 read with Sections 3 and 4 of Dowry Prohibition Act, 1961.
2. The petitioner is the husband of the deceased and the complainant is the father of the deceased, wherein it is alleged that the petitioner along with his father and mother had harassed the deceased for dowry and that the deceased had called her parents from her mobile and informed them about the same.
3. It is further alleged that the death had occurred within a seven years of marriage and the provision of Section 304-B had been invoked. The post-mortem Report opined that the death is due to asphyxia as a result of hanging.
4. The facts of the case is that the marriage of the petitioner and the deceased was performed in month of April 2014. On 14-1-2015 the Deceased called her

month/the wife the complainant over phone and told her that she is committing suicide and she is turn spoke to her at length and consoled her.

5. It is submitted by the petitioner's Counsel, that both, the family of the deceased and accused are coolies and neither of them is able to demand or pay any huge dowry and hence, the very allegation that the deceased was harassed by the accused for non-payment of dowry is totally false. The petitioner's Counsel would further submit that the deceased was unhappy with the marriage and that she was forced into marriage by her parents. He would submits that the cause of the unhappiness is that the petitioner is uneducated and has attended school upto second standard, whereas the deceased had completed her S.S.L.C. Course and she was highly disappointed with the match chosen by her parents. The petitioner's Counsel would further submit that the police have already filed a charge-sheet. He would also rely upon the post-mortem report to demonstrate that it is a case of suicide and that the petitioner's had no role in it. He would further state that there is no finding that there were any other external injuries on the body of the deceased. The petitioner's Counsel would further submit that the distance between the residence of the complainant and the residence of the matrimonial house of the deceased is only 10 kms. He would further submit that the allegation in the complaint is that the deceased had called her mother and told her that she is going to commit suicide is false. It is argued on behalf of the petitioner that no mother who receives call from a daughter saying that she is going to commit suicide, would just sit back at home and allow the daughter to commit suicide, but, on the contrary, would have straight away made an attempt to rush to the aid of her daughter. He submits that the complaint against the petitioners is by grieving parents who have lost their daughter and there is not even iota of complaint. The contention of the Counsel merit consideration.

6. It is seen that there has been no other complaint against the petitioner by the deceased or by the complainant with regard to the allegation of demand of dowry or any physical harassment. Even the complaint does not detail any physical torture or any physical violence has been used against the deceased prior to her death. It is the case that the petitioner was away from his resident, he was on a piligrimage to Koodalasangam and that he had gone thereto perform certain

poojas and while he was in Koodalasangam the information, above the death of his wife was conveyed to him. On receipt of the information, he has rushed back to the residence and has co-operated with the Investigating Authorities. It is seen that he has been arrested and detained on the same day. While Investigating Agencies have filed a charge-sheet and according to the final report they have opted to omit the names of father and brother of the petitioner-accused herein, due to lack of evidence.

7. In the above facts and circumstances, this Court is of the considered opinion that the petition deserves to be allowed. The petitioner has been in custody for the last several months. Petitioner has not made any attempt to escape from the clutches of law. On the other hand, he has co-operated with the Investigating Agencies. The post-mortem report clearly states that the death is due to hanging and mainly because of the same, the provisions of Section 304-B of IPC has been invoked.

8. The issue whether the deceased resorted to suicide because of harassment meted out by the accused or not is a matter for trial and requires to be established during trial. Till the Courts arrive at such a conclusion it would not be appropriate to detain the accused, who is aged about 24 years, in further judicial custody. It is submitted on behalf of petitioner that there are no other criminal antecedents and the petitioner is not involved in any criminal activity. Hence, petition is allowed:

(i) The petitioner is directed to be enlarged on bail, subject to executing a bond for a sum of Rs. 25,000/- and furnishing two sureties for the likesum to the satisfaction of the jurisdictional Court.

(ii) The petitioner shall not leave the jurisdiction of this Court without the prior permission of the Trial Court.

(iii) The petitioner shall not tamper with the evidences.

(iv) The petitioner shall not influence the witnesses.

(v) The petitioner shall attend the Court hearings on all dates without fail.

(vi In the event the petitioner violates the above conditions, the prosecution is at liability to approach this Court for the vacation of this order.

Order accordingly.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com