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Court : Karnataka Kalaburagi

Decided On : Jul-01-2017

Judge : B.A. Patil

Appeal No. : Criminal Petition No. 200655 of 2017

Appellant : Kumar and Others

Respondent : The State of Karnataka, R/by Addl. SPP

Judgement :

(Prayer: This Criminal Petition is filed under Section 439 of Cr.P.C., praying to grant the regular bail toe the petitioners in Yadgiri Rural P.S. Crime No.88/2017, pending on the file of JMFC Court at Yadgiri, which is registered for the offences P/U/Sec. 498(A), 306 R/W Sec. 149 of IPC.)

1. This petition is filed by the petitioners/accused Nos.1 to 3 and 5 under Section 439 of Cr.P.C., seeking regular bail in Crime No.88/2017 of Yadgiri Rural Police Station, registered for the offences punishable under Sections 498(A), 306 R/w Sec. 149 of IPC.

2. The genesis of the complaint are that, the younger daughter of the complainant by name Sushilabai was given in marriage to accused No.1 about 10 years back. After the marriage both were leading happy marital relations and they have begotten two children and subsequently both children died. It is the further allegation of the complainant that, about three years back, he has given

Rs.2,20,000/- to accused No.1 by obtaining a loan from Adath. When the complainant asked accused No.1 to repay the said amount, accused No.1 postponed it since two years and because of the said demand of Rs.2,20,000/- by the complainant, the accused persons started ill-treating and giving torture to his daughter Sushilabai by saying that, you are not fair looking lady and unable to do work in the house as well as in the field and now you are issue less and further they used to instigate her to die, as they wanted to perform the second marriage to accused No.1. It is further alleged that, whenever the victim came to the parental house, she used to say regarding the torture given by the accused persons. In that light, on 16.05.2017 at about 3.00 p.m., there was an exchange of words in the house of the accused and as a result of the same, the victim pored kerosene on herself and ablaze herself and as a result of the same, she sustained the burn injuries and immediately she was taken to Government Hospital, Yadgiri and subsequently she succumbed to the burn injuries. Therefore, a complaint came to be lodged and on the basis of the said complaint, a case was registered against the accused persons.

3. I have heard the learned counsel for the petitioners and the learned Additional State Public Prosecutor appearing for respondent-State.

4. The main grounds urged by the learned counsel for the petitioners are that, petitioners are innocent and they have not committed any offence alleged against them. There is no ill-treatment and harassment caused by the petitioners. It is also contended that, the complaint averments are not going to attract any of the provisions of either Section 498(A) of IPC or 306 of IPC. An omni bus allegation has been made out against the petitioners regarding ill-treatment and harassment. It is further contended that the alleged incident has taken place after ten years of the marriage. Under such circumstances, there is no question of ill-treatment and harassment. It is further contended that, the petitioners are from the respectable family and the alleged offences are not punishable with death or imprisonment for life. It is further contended that the petitioners have got both movable and immovable properties, therefore, there is no chance of they being absconded. Further, it is contended that if the petitioners are released on bail, they are ready to abide by the conditions to be imposed by this Court and ready to offer sureties.

On these grounds, he prays for allowing the petition.

5. On the contrary, learned Additional State Public Prosecutor appearing for the respondent-State would contend that, the petitioners have ill-treated and harassed the deceased and because of the torture, the deceased by poring the kerosene ablaze herself and subsequently died because of the burn injuries. He would also contend that, the petitioners are the main cause for the death of the deceased and as such they are not entitled to be released on bail. He would further contend that, at this juncture, if the petitioners are released on bail, they may abscond and they may not be available for trial. On these grounds, he prays for dismissal of the petition.

6. I have gone through the copy of the complaint and other material produced along with the petition.

7. At this juncture, learned counsel for the petitioners submits that, he will not press the petition as against petitioner No.1/accused No.1. As such, the petition against petitioner No.1/accused No.1 is dismissed.

8. On perusal of the records, though there is allegation against all the petitioners to show that, the complainant demanded to return Rs.2,20,000/- which has been given by him to petitioner No.1 by obtaining the loan from Adath and because of that, petitioner No.1 used to torture and ill-treat his daughter. But, so far as other petitioners are concerned, there is no such specific over-act or allegation regarding ill-treatment and harassment. When there is a direct allegation against petitioner No.1 and there is no allegation as against the other petitioners and when the said offences are not punishable with death or imprisonment for life, under such circumstances, I feel that, by imposing some stringent conditions if petitioner Nos.2 to 4/accused Nos.2, 3 and 5 are released on bail, it would meet the ends of justice.

9. For the above reasons, the petition against petitioner No.1/accused No.1 is dismissed and the petition in respect of petitioner Nos.2 to 4/accused Nos.2, 3 and 5 is allowed. Petitioner Nos.2 to 4/accused Nos.2, 3 and 5 are ordered to be released on bail, subject to the following conditions:

i. Petitioner Nos.2 to 4 shall execute a personal bond for a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) with two solvent sureties each for a likesum to the satisfaction of the jurisdictional Court;

ii. Petitioner Nos.2 to 4 shall not indulge in hampering the investigation or tampering the prosecution witnesses directly or indirectly;

iii. Petitioner Nos.2 to 4 shall make themselves available to the Investigating Officer as and when required;

iv. Petitioner Nos.2 to 4 shall mark their attendance before the Investigating Officer once in fortnight till the charge sheet is filed;

v. Petitioner Nos.2 to 4 shall appear before the trial Court on all the dates of hearing without fail.

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