

Devamma vs the State of Karnataka

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Court : Karnataka Kalaburagi

Decided On : May-28-2024

Judge : S.Vishwajith Shetty

Appeal No. : CRL.P/200003/2024

Appellant : Devamma

Respondent : The State of Karnataka

Judgement :

-1- IN THE HIGH COURT OF KARNATAKA, KALABURAGI BENCH DATED THIS THE 28TH DAY OF MAY, 2024 BEFORE THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY CRIMINAL PETITION NO.200003 OF 2024 (439) BETWEEN: DEVAMMA W/O SIDDAPPA CHETTIGERI, AGE: 35 YEARS, OCC: HOUSEMAKER, R/O BABALAD VILLAGE, TQ: WADGERA, DIST: YADGIRI-585 201. PETITIONER (BY SRI SHIVANAND PATIL, ADVOCATE) AND: Digitally THE STATE OF KARNATAKA, signed by SACHIN BY WADGERA POLICE STATION, Location: REPRESENTED BY ADDL. SPP., HIGH COURT OF HIGH COURT OF KARNATAKA, KARNATAKA KALABURAGI BENCH, KALABURAGI-585 107. RESPONDENT (BY SMT. ANITA M. REDDY, HCGP) THIS CRL.P. IS FILED U/S.439 OF CR.P.C PRAYING TO ALLOW THE PETITION AND ENLARGE THE PETITIONER ON BAIL IN

CRL.MISC.NO.523/2023 (CR NO.0105/2023 OF WADIGERA P.S) FOR OFFENCE PUNISHABLE U/S 201 AND 302 OF IPC -2- PENDING ON THE FILE OF THE DISTRICT AND SESSIONS JUDGE AT YADGIR. THIS PETITION COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Accused in Crime No.105/2023 registered by the Wadgera Police Station, Yadgir for offences punishable under Sections 302 and 201 of Indian Penal Code now pending before the Court of District and Sessions Judge, Yadgir is before this Court under Section 439 of Code of Criminal Procedure seeking regular bail.

2. Heard learned counsel for the parties.

3. FIR in Crime No.105/2023 was registered by

the Wadgera Police Station, Yadgir for the aforesaid offences against the petitioner herein on the basis of the first information received from Smt.Shridevi, who is the mother of the deceased minor child. During the course of investigation, the petitioner was arrested on 06.09.2023 and ever since then she is in judicial custody. Investigation in the case is completed and charge-sheet has been filed.

-3- Bail application filed by the petitioner before the jurisdictional Sessions Court in Crl.Misc.No.523/2023 was rejected on 27.09.2023. Therefore, he is before this Court.

4. Learned counsel for the petitioner submits that petitioner is aged about 35 years and she is the second

wife of Siddappa Chettigeri, while the de-facto complainant is the first wife of Siddappa Chettigeri. He submits that the averments made in the first information itself make the case of prosecution doubtful. He accordingly prays to allow the petition.

5. Per contra, learned High Court Government

Pleader has opposed the petition. She submits that investigation in the case is completed and charge-sheet has already been filed. The allegation against petitioner is that she had administered poison to the minor child of the de-facto complainant. Accordingly, she prays to dismiss the petition.

6. The de-facto complainant is the first wife of

Siddappa Chettigeri and since the couple had no issues

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from the wedlock, Siddappa Chettigeri had married the petitioner herein and from the said wedlock, they have four children. Subsequently, the de-facto complainant also had joined her husband and thereafter a girl child was born to them. The allegation against the petitioner is that on 30.08.2023 at about 9.00 a.m. she had administered pesticide to the minor child of the de-facto complainant, aged about five months and committed the murder. As per the averments made in the first information, at about 9.00 a.m. petitioner had taken the minor child along with her and had locked herself inside a room in the house and after about 30 minutes she had come out. Thereafter, the child was playing. The petitioner along with her mother-in-law had thereafter gone to Wadgera Hospital and had returned home in the afternoon. At about 3.00 p.m. the

child started crying and also started vomiting and immediately the child was taken to the hospital, but on the way to the hospital the child had died. First information with regard to the alleged incident that had taken place on 30.08.2023 was lodged on 31.08.2023 at about 9.30 p.m. -5-

The petitioner who is a lady, aged about 35 years is in custody on 06.09.2023. Investigation in the case is completed and charge-sheet has been filed. Allegation against the petitioner is required to be proved by the prosecution in a full-fledged trial. Considering the nature of allegations and the averments made in the first information and also taking into consideration the proviso to Section 437(1) of Code of Criminal Procedure, I am of the opinion that the petitioners prayer for grant of regular bail is required to be considered affirmatively. Accordingly, I

proceed to pass the following:

ORDER

The petition is allowed. The petitioner is directed to be enlarged on bail, arising out of Crime No.105/2023 of Wadgera Police Station, Yadgir registered for the offences punishable under Sections 302 and 201 of Indian Penal Code pending before the Court of District and Sessions Judge, Yadgir subject to the following conditions: -6-

a) The petitioner shall execute personal bond for a sum of `1,00,000/- with one surety for the likesum, to the satisfaction of the jurisdictional Court; b) The petitioner shall appear regularly on all the dates of hearing before the Trial Court unless the Trial Court exempts her appearance for valid reasons; c) The petitioner shall not directly or indirectly threaten or tamper with the prosecution witnesses; d) The petitioner shall not involve in similar offences in future.

Sd/- JUDGE SN List No.: 1 SI No.: 8

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