

T. Jagadeeswar and anr. Vs. State of Andhra Pradesh

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Court : Andhra Pradesh

Decided On : Jan-04-2002

Reported in : 2002(2)ALD(Cri)20; 2002(2)ALT(Cri)297; 2003CriLJ701; I(2003)DMC195

Judge : T. Ch. Surya Rao, J.

Acts : Code of Criminal Procedure (CrPC) - Sections 167

Appeal No. : Criminal Petition No. 14 of 2002

Appellant : T. Jagadeeswar and anr.

Respondent : State of Andhra Pradesh

Advocate for Def. : Public Prosecutor

Advocate for Pet/Ap. : S. Ashok Anand Kumar, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

T. Ch. Surya Rao, J.

1. The petitioners who are A1 and A2 in the crime seek bail in connection with the case registered against them for the offences punishable under Sections 498A

and 306 of the Indian Penal Code. The request of the petitioners for bail was considered by this Court earlier in Criminal Petition No. 5412 of 2001, dated 10.12.2001 while granting bail to the other two accused in the crime. However, this Court observed that the petitioners could renew their request at an appropriate stage. The petitioners, therefore, renew their request in this application.

2. A perusal of the record shows that it was a case where a foul play was suspected by the de facto complainant who lodged the report. However, the crime was registered surprisingly under Sections 498A and 306 of the Indian Penal Code, the basis of which is not known. The cause of death is not known still since the post-mortem certificate has not yet been received. Investigation is, therefore, pending.

3. At this stage the learned counsel for the petitioners contends that the extension of remand in so far as A2 is concerned is illegal and she deserves to be granted bail. The learned counsel brings to my notice the two remands orders passed by the court below. A perusal of both the orders passed extending remand upto 27.12.2001 and 8.1.2002 shows that the rubber stamp was got prepared for the purpose with the necessary blanks at appropriate places to be filled up and that rubber stamp has been affixed while ordering extension of remand. It further shows that A2 was not produced before the Court but through electronic video linkage she was shown to the Court in view of the recent amendment got made facilitating the electronic video linkage to avoid the mischief under sub-section (2) of Section 167 of the Code of Criminal Procedure. To that extent there is no illegality as can be seen from the order. But both the orders do not speak about anything that has been ascertained by the learned Magistrate from the accused when shown in the electronic video. Remand order, to be passed in accordance with the provisions of Section 167 of the Code of Criminal Procedure, is certainly not an administrative order to be passed by the Magistrate. It is a judicial order to be passed on application of mind to the contents of the remand report submitted by the Investigating Officer. The order should reflect the necessary application of mind on the part of the Magistrate and the extension of remand in consequence thereof. It is not an empty formality or a routine course to extend remand time and again as and when sought for by the police. The order, therefore, should contain

the reason to extend remand further. The authorisation of the detention of the accused in custody must be with reference to entries made in the remand report that the investigation could not be completed within a period of 24 hours as fixed under Section 57 of the Code of Criminal Procedure and that there are grounds for believing that the information is well founded. That is the reason why the Investigating Officer is obliged under law to forward the entries in the diary while seeking remand to custody. The necessary satisfaction of the Magistrate in regard thereto should reflect in the remand order. Here, in this case, the learned Magistrate affixed the rubber stamp which act shows that it is nothing but a mechanical one. Furthermore, the contents in the stamp do not disclose any such satisfaction reached by the learned Magistrate or at least that he has heard the accused through electronic video as well as the prosecution. In the absence of any such expression in the order that he heard both the sides the order definitely becomes laconic. Such things could be avoided reasonably.

4. In view of the observations that investigation is pending and post-mortem report has not yet been received the request of the petitioners to bail at this stage cannot be considered. The Criminal Petition is, therefore, dismissed. Communicate a copy of this order to the Court below for future guidance.

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