

Devender Kumar Vs. State

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Court : Delhi

Decided On : Feb-14-2011

Judge : Hima Kohli, J.

Acts : Code of Criminal Procedure (CrPC) (Cr.P.C) - Section 439, 82, 83; Indian Penal Code,(IPC) - Section 302, 34

Appeal No. : BAIL APPLN. 16/2011

Appellant : Devender Kumar

Respondent : State

Advocate for Def. : Mr. Navin Sharma, Adv.

Advocate for Pet/Ap. : Mr. R.S.Malik;Dr.R.S.Tehlan; Mr.S.Sharma, Adv.

Judgement :

1. Whether Reporters of Local papers may No be allowed to see the Judgment?

2. To be referred to the Reporter or not? No

3. Whether the judgment should be No reported in the Digest?

1. The present petition is filed by the petitioner under Section 439 of the Cr.PC praying inter alia for grant of bail in FIR No.400/2009 lodged under Sections 302/34 IPC, registered with Police Station: Prashant Vihar, New Delhi. The complainant herein is the brother of the deceased.

2. A Status Report was called for from the State. The same has been filed. As per the Status Report, the undisputed facts of the case are that the deceased Sh.Virender Singh was residing at Rohini along with his family members and ran a printing press. He had a relationship with a lady named Sheela Gupta(co-accused) who was stated to be in the habit of frequently taking money from the deceased. The complainant was opposed to his brother's relationship with this lady. On the date of the crime, i.e., on 27.1.2009, when the deceased did not return home till late night, as per the complainant, he rushed to the residence of Ms.Sheela Gupta at 1AM only to find the body of his brother lying in front of House No.5/33, Block E-1, Sector-15, Rohini. In the complaint, it was alleged that Ms.Sheela Gupta and one Yogesh Dagar were holding the legs of the deceased and the accused persons were assaulting him with fists and kicks at the instigation of Ms.Sheela Gupta. Thereafter, when a car reached the spot, the complainant ran to his house to call his brothers and when he returned at the place of occurrence, he found that the deceased had been removed to a hospital by the police, where he was declared as brought dead. Apart from Sheela Gupta and Yogesh Dagar, Jitender Soni and Sushila Chaudhary were also arrested in the case and charges were framed against them. During the course of the investigation, the complainant made a supplementary statement before the police regarding the involvement of the petitioner herein, who thereafter absconded and proceedings had to be initiated against him under Sections 82 & 83 Cr.PC. Subsequently, he surrendered himself before the learned MM and was arrested in the aforesaid case. A supplementary charge has been framed against the petitioner.

3. Learned APP for the State submits that the charge sheet was filed and charges have been framed and out of the twenty witnesses listed by the prosecution, five public witnesses have already been examined, thus leaving the remaining formal witnesses, including medical witnesses and police officials still to be examined.

4. The stand of the counsel for the petitioner that the complainant has not made any allegation against the petitioner in his testimony, is borne out from a perusal of the said testimony placed on record, which indicates that the complainant(PW-1) has resiled from his statements made against the petitioner and he has even refused to identify him. Learned APP for the State confirms the aforesaid position.

5. Having regard to the facts and circumstances of the case, present petition is allowed. The petitioner is admitted on bail subject to his furnishing a personal bond in the sum of `50,000/-, with one surety in the like amount to the satisfaction of the trial court, subject to the condition that the petitioner shall fully co-operate in the investigation while appearing before the arresting officer/IO as and when called by him and will not create any hindrance or impediment during the course of investigation. It is further directed that the petitioner shall not leave the country without obtaining the prior permission from the trial Court.

6. Needless to state that the observations made hereinabove are confined to the relief sought in the present petition and shall not in any manner influence the trial court in proceeding further with the case.

7. The petition is disposed of.

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