

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION NOS.11955 AND 11998 OF 2017

COMMON ORDER:

These two petitions are filed under Section 439 Cr.P.C. to grant bail to the petitioners-A1 to A3 for the offences alleged under Sections 307, 324, 506, 109 and 212 r/w 34 IPC.

2. Heard learned counsel for the petitioners-A1 to A3, learned Additional Public Prosecutor representing the State and perused the record.

3. Learned counsel for the petitioners-A1 to A3 would submit that the petitioners are innocent persons and falsely implicated in this case due to boundary dispute between them and the de facto complainant. The de facto complainant while running away, fell down on electric pole and suffered head injury and died. The petitioner-A2 also suffered injuries at the hands of the de facto complainant and he was treated for the injuries. The section of law was altered from Section 307 IPC to 302 IPC due to the death of the de facto complainant and ultimately, prayed to allow the applications.

4. On the other hand, learned Additional Public Prosecutor opposed the grant of bail to the petitioners-A1 to A3.

5. The material on record reveals that on 03.10.2017 around 1.30 P.M., the petitioners-A1 and A3 were abusing the wife of the de facto complainant. The de facto complainant intervened and questioned as to why they were abusing his wife. Thereafter, A1 and A3 started abusing the de facto complainant also stating that the land

fell to their share was short and they wanted to re-arrange the boundary stones between them. The de facto complainant stated that the boundary stones were fixed correctly and there is nothing to change. Then all the petitioners-A1 to A3 alleged to have attacked the deceased-Suryanarayana and the petitioner-A2 said to have beat the deceased on the head with a sharp side of the spade. Due to that, the deceased suffered grievous injuries. Immediately, he was hospitalized at Amalapuram. Thereafter, he was shifted to Government hospital, Kakinada. While undertaking treatment, he succumbed to injuries on 11.10.2017.

6. Learned counsel for the petitioners-A1 to A3 also submit that the petitioner-A2 received fracture injury on his right hand at the hands of the deceased in this case and he has taken treatment. To substantiate the same, he filed copies of record obtained from the Sub-Jail, Amalapuram. In those copies of documents, there is a mention that the petitioner-A2 suffered injury on his right hand and took treatment. There is also mention that the petitioner-A2 is suffering from ill-health. As seen from the entire material placed on record, there is boundary dispute between the petitioners and the deceased family. There is also specific mention in the report lodged with the police as well as investigation conducted in this case that all the petitioners have assaulted the deceased on 03.10.20127 around 1.30 P.M., In that process, the petitioner-A2 beat the deceased on head with a sharp side of the spade, which resulted the subject death. There are specific and grave allegations against all the petitioners. Under these circumstances, it cannot be said that the deceased in this case is the aggressor. As per the record, the petitioners are

persons who picked up quarrel with the deceased with regard to their ancestral land and they have started abusing the wife of the de facto complainant at first instance. Thereafter, they started abusing the de facto complainant also. The investigation is in progress. The release of the petitioners at this stage would hinder investigation. There are no justifiable grounds to allow the petitions.

7. Accordingly, the Criminal Petitions are dismissed.

DATED: 20-12-2017

Hsd

DR.SHAMEEM AKTHER, J

