

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 758 OF 2015

(@ S.L.P. (CrI.) No. 4044 of 2015)

(CrI. M.P. No. 4741/2015)

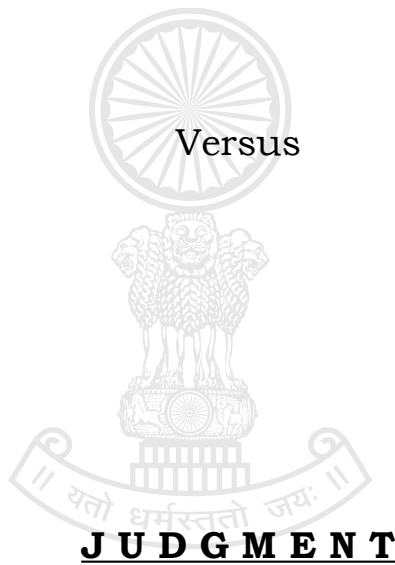
Mohar Singh

... Appellant

Versus

State of Rajasthan

...Respondent



J U D G M E N T

Prafulla C. Pant, J.

This appeal is directed against judgment and order dated 25.02.2014, passed by the High Court of Judicature for Rajasthan, Jaipur Bench, in S.B. Criminal Appeal No. 144 of 1998 whereby said Court has dismissed the appeal and

affirmed the conviction and sentence recorded by Additional Sessions Judge, Karauli, under Section 307 of Indian Penal Code (IPC) in Sessions case No. 26 of 1986.

2. We heard learned counsel for the parties and perused the papers on record.

3. Prosecution story, in brief, is that on 10.03.1986, Rekh Singh (PW-1) was going to get his tubewell engine repaired. He was stopped by appellant Mohar Singh and three others. While other three caught hold of Rekh Singh, appellant gave lathi blows on his neck, back and legs, due to which the injured (Rekh Singh) fell down. Witnesses Man Singh (PW-2), Gyan Singh (PW-3), and Ram Roop (PW-4) witnessed the incident. They took the injured to hospital where Dr. Nand Lal Sharma (PW-5) recorded injuries suffered by Rekh Singh in Ex. P-7, and also advised X-ray. After X-ray of injury on head, suffered by the injured, fracture was detected and supplementary report Ex. P-5 was prepared. PW-7 Manvendra Singh, S.H.O., Karauli, received information from aforesaid hospital, and set the police machinery into action. Sub-inspector, Bharat Singh (PW-6) went to the hospital and

recorded "Parcha Bayan" - Ex. P-1. On the basis of said memorandum, First Information Report No. 70/86 was registered at the Police Station. S.H.O, Manvendra Singh (PW-7) investigated the Crime, and after interrogating the witnesses, and inspection of site, filed charge-sheet against appellant Mohar Singh and three others, namely, Ram Kishan and his sons Meetha Lal and Bheem Singh, for their trial in respect of offence punishable under Section 307 read with Section 34 IPC.

4. The concerned Magistrate, on receipt of the charge-sheet, after giving necessary copies, appears to have committed the case to the Court of Sessions for trial. The trial court, after hearing the parties, framed charge in respect of offence punishable under Section 307/34 IPC against all the four accused, including the appellant, who pleaded not guilty and claimed to be tried. On this, prosecution got examined PW-1 Rekh Singh (injured), PW-2 Man Singh, PW-3 Gyan Singh, PW-4 Ram Roop (all the three are witnesses), PW-5 Dr. Nand Lal Sharma (who medically examined the injured), PW-6

Bharat Singh, and PW-7 S.H.O. Manvendra Singh (Investigating Officer).

5. Oral and documentary evidence was put to the accused under Section 313 of the Code of Criminal Procedure, 1973, in reply to which they pleaded that evidence against them was false. However, no evidence in defence was adduced.

6. The trial court, after hearing the parties, found that prosecution could successfully prove charge of offence punishable under Section 307 IPC only against Mohar Singh, and involvement of other three others, namely, Ram Kishan (Father of Mohar Singh) and Meetha Lal and Bheem Singh (both brothers of Mohar Singh) was doubtful. Accordingly, the trial court convicted Mohar Singh, and after hearing of sentence, sentenced him to rigorous imprisonment for a period of five years and fine of Rs. 500/- under Section 307 IPC, and further directed that in default of payment of fine, he shall undergo additional sentence of imprisonment for a period of six months.

7. Aggrieved by said judgment and order dated 29.04.1988 passed in Sessions case No. 26 of 1986 by Additional Sessions

Judge, Karauli, the convict filed S.B. Criminal Appeal No. 144 of 1986. However, the High Court, after hearing the parties, found no force in the appeal, and dismissed the same. Hence this appeal, through Special Leave.

8. Before further discussion, we think it just and proper to mention the eight injuries suffered by Rekh Singh which were recorded by Dr. Nand Lal Sharma (PW-5) in his report Ex.P-6, which are reproduced below:-

- “(a) Red blue mark 10 x 8 cm on left temporal region of head and on parietal region of skull, in which there was lot of swelling and left eye became totally blue. This injury was long in nature.
- (b) Red oblique bluish mark 7 x 3 cm., which was on right side of neck, swelling was in it.
- (c) Oblique red blue mark 7 x 2 cm on upper part of left thigh.
- (d) Red blue mark 12 x 3 cm on left lower part of chest.
- (e) Cut wound 2 x 0.5 cm, which was skin deep, on the middle part of left leg, where from blood was oozing out.
- (f) Red blue mark 2 x 1 cm on left shoulder.
- (g) Red abrasion mark 2 x 1 cm also on left elbow.
- (h) Red blue mark 2 x 1 cm on right hand.”

The medical officer has further proved supplementary report Ex.P-5 and also the X-ray plates Ex.P-3 and Ex.P-4, and opined that there was fracture corresponding to injury No.1. In his opinion the injuries were caused by hard blunt object like lathi. However, in the cross-examination said witness has stated that the injury could have been caused by fall.

9. The statement of the PW-1 Rekh Singh injured, is not only natural and trustworthy, but also corroborated by medical evidence on record. Apart from this, eye witnesses PW-2 Man Singh, PW-3 Gyan Singh and PW-4 Ram Roop have further corroborated the incident. Injury on the head is so grievous that the medical officer has opined, it could have caused death. As such, we do not find any illegality committed by the courts below regarding conviction of Mohar Singh (appellant) in respect of offence under Section 307 IPC.

10. Learned counsel for the appellant submitted before us that after the incident, the injured has entered into compromise, and he does not want to prosecute the appellant.

In this connection, application for permission to file additional document (Annexures P-12, P-13) has been moved before us, enclosing Panchayatnama dated 05.02.2014, prepared by the villagers. Since the offence punishable under Section 307 IPC is non-compoundable offence, as such, we reject the compromise filed by the appellant. Though the victim also appeared in person before us to corroborate that now he is no more interested to prosecute the appellant, but considering the nature of injuries and the nature of offence, we are not inclined to interfere with the conviction recorded by the trial court against the appellant, and affirmed by the High Court. However, taking note of above fact, we think it just to reduce the period of sentence of imprisonment to three years without interfering with the sentence of fine. This reduction in sentence shall not be treated precedent for sentencing in respect of offence punishable under Section 307 IPC.

11. Accordingly, conviction is not interfered with but the sentence is reduced to rigorous imprisonment for three years. The appeal stands disposed of. The appellant shall surrender

before the court concerned to serve out the remaining unserved part of sentence, as modified by this Court.

.....J.

[Dipak Misra]

New Delhi;
May 11, 2015.

.....J.

[Prafulla C. Pant]



JUDGMENT