

Amar Nath Vs. State

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Court : Delhi

Decided On : Sep-13-2013

Judge : S. P. Garg

Appellant : Amar Nath

Respondent : State

Judgement :

\$-R-9 * IN THE HIGH COURT OF DELHI AT NEW DELHI DECIDED ON :

13. h SEPTEMBER, 2013 + CRL.A. 383/2002 AMAR NATH Appellant Through : Mr.Sumit Verma, Advocate. versus STATE Respondent Through : Mr.Feroz Khan Ghazi, APP. CORAM: HONBLE MR. JUSTICE S.P.GARG S.P.Garg, J.

(Open Court) 1. Amar Nath (the appellant) was arrested in FIR No. 527/1997 under Sections 307/34 IPC registered at PS I.P.Estate and was sent for trial on the allegations that on 05.10.1997 at about 02.30 P.M. he committed house trespass inside jhuggi belonging to Kavinder Kumar at Jamuna Pushta, Gautam Puri after having made preparation to cause hurt. It was further alleged that he, on the exhortation of his companion Dalip Kumar, inflicted injuries to Lal Babu, Kavinder Kumar and Shatrughan with a sickle. The police machinery was set into motion when information about a quarrel at Jamuna Pushta, Gautam Puri was reported and Daily Diary (DD) No. 14-A (Ex.PW-4/A) was recorded at 02.38 P.M. The investigation was assigned to ASI Jai Pal Singh who with Const. Anand went to

the spot. He learnt that the injured had already been taken to hospital. He went to JPN Hospital and collected the MLC of injured Kavinder Kumar, Shatrughan and Lal Babu. He lodged First Information Report after recording Kavinder Kumars statement (Ex.PW-1/A). Amar Nath and Dalip were arrested. After completion of investigation, a chargesheet was submitted against the present appellant - Amar Nath. Dalip was discharged on 23.08.1999. The prosecution examined ten witnesses to bring home the guilt of the accused. In his 313 statement, he pleaded false implication. The appellant was held guilty for committing the offences under Sections 452/326/324 IPC. Vide an order dated 07.11.2001, he was sentenced to undergo RI for three years and three months with total fine `4,000/-. Being aggrieved, he has preferred the appeal.

2. During the course of hearing, appellants counsel on instructions stated at Bar that he has opted not to challenge the findings of the Trial Court on conviction under the aforesaid offences. He however, prayed to take lenient view as the appellant has already undergone substantial part of the substantive sentence awarded to him.

3. I have heard the learned counsel for the parties and have examined the record. Since the appellant has not opted to challenge conviction and has accepted it voluntarily in the presence of overwhelming evidence in the statements of injured witnesses coupled with medical evidence which is in consonance with ocular testimony, appellants conviction under the aforesaid offences is affirmed.

4. The incident took place on 05.10.1997. The appellant has suffered ordeal of trial/ appeal for about sixteen years. Nominal roll dated 23.10.2002 reveals that he has already undergone one year and one day incarceration as on 23.10.2002. He also earned remission for three months and thirteen days. His substantive sentence was suspended vide order dated 29.10.2002 and there is specific mention that the appellant had served out almost half of the imprisonment awarded to him. Nominal roll further reveals that he is not a previous convict and is not involved in any other criminal activity. His overall jail conduct was satisfactory. He was aged about 18 years on the date of incident. His age can be ascertained from his nominal roll, statement recorded under Section 313 Cr.P.C. and order on

sentence. Dalip at whose exhortation he allegedly inflicted injuries was discharged. The Trial Court record reveals that ossification test was conducted and the report (Ex.CW-1/A) recorded his age in between 15 - 16 years as on 24.10.1997. However, on the basis of school record, his date of birth was ascertained as 04.05.1979. It reveals that the appellant was aged about 18 years on the date of incident. Taking into consideration all these mitigating circumstances, the appellant is ordered to be released for the period already undergone by him. The fine has since been deposited.

5. Appeal stands disposed of in the above terms. The Trial Court record be sent back forthwith. (S.P.GARG) JUDGE SEPTEMBER 13 2013/tr

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