

Sunil Patel Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Mar-22-2013

Appellant : Sunil Patel

Respondent : The State of Madhya Pradesh

Judgement :

Criminal Revision No.341/2013 22.03.2013 Shri A.K.Jain, Advocate for the applicants.

Shri G.S.Thakur, Panel Lawyer for the respondent-State.

Heard on the question of admission.

By this Criminal Revision under Section 397/401 of Cr.P.C.the applicants have challenged the order dated 9.1.2013 passed by the learned FiRs.Additional Sessions Judge, Gadawara District Narsinghpur in ST No.224/2011 whereby the charges of offence punishable under Section 307/34 of IPC were framed against the applicants for the victims Bade Gujar, Nanhe Bhiya and Netram along with other charges.(Learned counsel for the State informs that the victim is not Netram.

His name is Tejram, but in the memo of charge, name of the victim is shown to be Netram).The prosecution case, in short, is that on 18.5.2011 at about 11:00 AM the victims were going on a motorcycle.

They were dashed by a car driven by the applicant No.2 Rajesh Patel.

Thereafter all the applicants abused the victims and chased them.

It is alleged that they assaulted the victims by ballam and baseball bate.

Victims Nanhe Bhaiya and Netram were again dashed by a car.

After considering the submissions made by the learned counsel for the parties and looking to the facts and circumstances of the case, it is apparent that the victim Nanhe Bhaiya sustained ten injuries, which were simple in nature.

Victim Netram sustained seven injuries, out of them fractures were found on left clavicle bone and left 1st rib, whereas the victim Bade Gujar sustained seven injuries, out of them fractures of right mandible and left maxillary bone were found.

It is apparent that the fractures caused to the victim Bade Gujar were not caused by ballam.

Similarly, none of the victims sustained any fatal injury.

There is no information given by the doctor that the injuries caused to the victims were found to be fatal.

It is apparent that initially the victims were dashed by a car and the driver did not try to rush over the car upon the victims and therefore at the time of dashing, he was not intended to kill the victims. Secondly, they were assaulted by various weapons and again a second dash was given by the car.

But it appears that they sustained simple injuries in the subsequent assault etc. Hence, it cannot be said that the applicants were intended to kill the victims. No ingredients of Section 300 of IPC are visible in the present case.

Consequently, no offence under Section 307 of IPC is constituted against the applicants.

At the most, two charges of the offence punishable under Section 325 with the help of Section 149 of IPC could be framed for the victims Bade Gujar and Netram, whereas charge under Section 323 of IPC could be framed for the victim

Nanhe Bhaiya.

On the basis of the aforesaid discussion, it is apparent that the learned Additional Sessions Judge has committed an error of law in framing the charges of the offence under Sections 307/149 of IPC against the applicants.

It is a fit case in which an interference by this Court is required by way of this revision.

Consequently, the revision filed by the applicants is hereby allowed.

The applicants are discharged from the charge of offence under Section 307/149 of IPC.

The impugned order dated 9.1.2013 is hereby set aside.

After discharged the applicants from the charges of offence under Section 307 of IPC, the trial remains not exclusively triable by the Court of Sessions, and therefore the learned Additional Sessions Judge is directed to proceed under Section 228 of Cr.P.C. A copy of this order be sent to the trial Court for information and compliance.

(N.K.Gupta) Judge Ansari

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