

Nasir Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Mar-20-2013

Appellant : Nasir

Respondent : The State of Madhya Pradesh

Advocate for Pet/Ap. : Shri. Anand Naik

Judgement :

Cr.R.No.2211/2012 20.3.2013 Shri Anand Naik, counsel for the applicants.

Shri S.K.Kashyap, Public Prosecutor for the respondent/State.

As prayed by learned counsel for the parties, matter is heard finally.

The applicants have challenged the order dated 2.11.2012 passed by the learned Second Additional Sessions Judge, Chhindwara in ST No.287/2012 whereby the charge of offence punishable under section 307 of I.P.C was framed against the applicants along with the other charges.

The prosecution's case relating to the present revision in short is that, on 13.9.2012 the applicants assaulted the various victims including Anand Sharma and Omkar.

After due investigation a charge sheet was filed.

A charge of offence punishable under Section 307 of I.P.C was framed against the applicants for the victims Anand Sharma and Omkar.

After considering the submissions made by learned counsel for the parties, it is apparent that it is alleged against the 10 persons that they assaulted various victims including Anand Sharma and Omkar.

In the incident Anand Sharma sustained only three injuries.

Out of them one injury was found on his head but no fracture was found to the corresponding injury in the head.

Similarly Omkar sustained four injuries out of them two fractures were found on his 10th and 11th ribs.

There is no document to show that some operation was done to the victim Omkar and there was injury on the vital part of the body below the chest.

Under such circumstances, it would be apparent that the applicants assaulted the victims without much force and therefore, they did not intend to kill the victims Anand Sharma and Omkar.

No fatal injury has been caused to the victim Anand Sharma and therefore, no ingredient of Section 300 of I.P.C is visible in the present case.

Consequently, no charge of offence punishable under Section 307 of I.P.C is constituted against any of the applicants.

For injuries caused to Anand Sharma and Omkar the charges of offence punishable under Sections 323 and 325 of I.P.C shall be constituted respectively either directly or with the help of Section 149 of I.P.C. The learned Additional Sessions Judge has committed an error of law in framing the charge of Section 307 of I.P.C against the applicants.

Under such circumstances, it is a fit case in which an interference is required in the impugned order by way of a revision.

Consequently, the revision filed by the applicants namely Nasir, Irfan, Sarafraj, Harun, Siraj, Samin, Hakim, Shikh Suleman, Raju and Amir is hereby allowed.

The order dated 2.11.2012 passed by the learned IInd Additional Sessions Judge, Chhindwara in ST No.287/2012 is hereby set aside.

The applicants are discharged from the charge of offence punishable under section 307 of I.P.C. The trial Court is directed to proceed according to the provisions of Section 228 of Cr.P.C. Copy of the order be sent to the trial Court for information and compliance.

(N.K.Gupta) Judge bina

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