

Ramnath Vs. the State of M.P.

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Court : Madhya Pradesh

Decided On : Sep-30-2013

Appellant : Ramnath

Respondent : The State of M.P.

Judgement :

HIGH COURT OF MADHYA PRADESH : JABALPUR SINGLE BENCH : HON. SHRI JUSTICE G.S. SOLANKI Criminal Appeal No.419/1997 Ramnath Vs. State of Madhya Pradesh Shri Pradeep Naveriya, Advocate for the appellant. Shri Aditya Singh, P.L. for the respondent/State.

JUDGMENT

(30.09.2013) This appeal has been preferred under Section 374(2) of the Code of Criminal Procedure being aggrieved by the judgment dated 21.02.1997 passed by Additional Sessions Judge, Waraseoni, District Balaghat in S.T. No.164/1993 whereby the appellant has been convicted under Section 304 Part-II of the I.P.C. and sentenced to R.I. for 7 years.

2. Facts in short, are that deceased Jayesh Kumar and appellant/accused Ramnath were doing some mining work as partners. There was some monetary dispute in this regard. On 05.02.1993, in the evening, appellant called Jayesh Kumar to his house, where he was brutally beaten by the appellant. After receiving the aforesaid information, brother of Jayesh Kumar and his colleague went to the house of appellant. They saw that appellant making the assault on Jayesh Kumar.

They took Jayesh Kumar to his house and thereafter rushed to the hospital, from where he was referred to Nagpur Medical College and ultimately on 10.02.1993, he succumbed to the aforesaid injuries.

3. Initially merg was registered against the appellant. After due investigation, appellant has been charge sheeted before Judicial Magistrate First Class, Waraseoni, who in turn committed the case to the Court of Sessions. The Sessions Judge made over the case to the trial Court. Additional Sessions Judge framed the charge under Section 302 of the I.P.C. against the appellant.

4. Appellant abjured the guilt and pleaded false implication. He further submitted that deceased and his brother came over to his house and assaulted appellant and his wife.

5. On perusal of evidence on record, appellant has been acquitted from the charge under Section 302 of the I.P.C. however, convicted and sentenced the appellant as mentioned hereinabove. Hence, this appeal.

6. Learned counsel for the appellant submitted that the trial Court committed an illegality in not appreciating the evidence on record. He, therefore, prays for acquittal of the appellant. He further submitted that appellant has already suffered jail sentence of 3 years and 9 months. In the ends of justice would be met, his jail sentence be reduced to the period already undergone by him.

7. Learned counsel appearing for respondent/State has supported the conviction and sentence recorded by the trial Court.

8. I have perused the impugned judgment alongwith the record of the trial Court. Jamnabai (P.W.-1), mother of deceased Jayesh Kumar stated that appellant came to her house and took her son Jayesh Kumar with him, who telling them that he will gave the disputed money to him. She further stated that she received information that her son was beaten by the appellant. Then she sent her younger son Rajesh to the house of appellant. Rajesh (P.W.-2) and Vijay Kumar (P.W.-3) have categorically stated that they went to the house of appellant, where they saw that appellant was making assault to Jayesh by stick. They tried to intervene but

appellant has scolded them and tried to assault them. Thereafter, they took Jayesh Kumar from the house of appellant to his house. He sustained many injuries, therefore they rushed him to the hospital, where initially Dr. Manoj Nigam (P.W.-9) has examined Jayesh. Despite extensive examination of witnesses Rajesh (P.W.-2) and Vijay Kumar (P.W.-3), nothing could be brought out from their cross-examination to disbelieve them. The statements of aforesaid two eye witnesses have further find corroboration from the medical evidence of Dr. Manoj Nigam (P.W.-9). He found abrasions on the head of Jayesh Kumar. He further found that Jayesh was unconscious. His eye balls were not reacting to the light. Therefore, he referred Jayesh to District Hospital, Balaghat. This fact further find support from the evidence of Dr. Ashok Hemraj Tank (P.W.-10), who performed the autopsy in the dead body of Jayesh. He found abrasions and contusions on the body of deceased Jayesh and further found Haematoma in brain. He further found that blood in extradural Haematoma and subdural Haematoma in the right temporal region and left parietal region. He opined that Jayesh succumbed to the aforesaid injuries.

9. As far as the injuries of the appellant is concerned, the trial Court rightly reached to the conclusion that during the incident, appellant may also assault the appellant and his wife. The appellant has also acceded the right of private defence and has made assault on the vital part of the body, head and ultimately Jayesh has died. In these circumstances, the trial Court has not committed any illegality in recording the conviction under Section 304 Part-II of the I.P.C. and the same is liable to be affirmed.

10. As far as the sentence is concerned, the appellant has suffered jail sentence of 3 years and 9 months, but considering the nature of injury caused by the appellant to the deceased, I am of the view that appropriate punishment to the appellant would be 5 years rigorous imprisonment.

11. In the circumstances, the appeal is partly allowed. The conviction recorded by the trial Court under Section 304 Part-II is hereby affirmed and his jail sentence is reduced from 7 years to R.I. for 5 years. Appellant is in jail. He is directed to suffer the remaining jail sentence. Record of the trial Court be sent back along with a

copy of this judgment for compliance and necessary action. (G.S.Solanki) JUDGE
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