

Ravinder Kumar Vs. the State

Ravinder Kumar Vs. the State

SooperKanoon Citation : sooperkanoon.com/1118274

Court : Delhi

Decided On : Jan-09-2014

Judge : S. P. Garg

Appellant : Ravinder Kumar

Respondent : The State

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI RESERVED ON :

13. h DECEMBER, 2013 DECIDED ON :

09. h JANUARY, 2014 + CRL.A. 397/2001 RAVINDER KUMAR Through :
....Appellant Mr.Anil Aggarwal, Advocate. versus THE STATE Through :
.Respondent Mr.Lovkesh Sawhney, APP. CORAM: HON'BLE MR. JUSTICE
S.P.GARG S.P.GARG, J.

1. Ravinder Kumar (the appellant) impugns a judgment dated 02.05.2001 of learned Addl. Sessions Judge in Sessions Case No.50/2000 arising out of FIR No.184/96 PS Anand Vihar by which he was convicted for committing offence punishable under Section 307 IPC and by an order on sentence dated 04.05.2001, he was awarded RI for five years with fine ` 5,000/-.

2. Allegations against the appellant were that on 16.08.1996 in between 08.45 P.M. to 09.00 P.M. at house No.381, Karkardooma, he inflicted injuries by a knife

to Hukam Singh in an attempt to commit murder. The occurrence took place about 09.00 P.M. The victim Hukam Singh was taken to GTB Hospital from the spot. MLC (Ex.PW-5/A) records the arrival time of the patient at 09.30 P.M. Daily Diary (DD) No.14 was recorded regarding the occurrence. PW-21 (Insp. Sanjay Singh) went to the spot and recorded Hukam Singhs statement (Ex.PW-1/A); made endorsement (Ex.PW-21/A) and lodged First Information Report at 11.55 P.M. There was no delay in lodging the report with the police. In the statement (Ex.PW-1/A), complainant gave vivid details of the incident and implicated Ravinder Kumar for inflicting injuries on the left side of the chest by a knife. He also disclosed appellants motive to cause injuries. Since the appellant was named in the earliest available opportunity by the complainant, there was least possibility to concoct a false story in a short interval. While appearing as PW-1, the complainant Hukam Singh proved the version given to the police at the first instance without any variation. He named Ravinder Kumar for causing injuries to him when he objected to abuses given by him to Pushpa Sharma, his tenant in house No.271. In the cross-examination, specific suggestion was put to the victim that after dissuading the accused from abusing the said lady, he (the complainant) did not return to his house or remained in the street or that he deliberately quarrelled with the accused in the street and sustained injuries. Presence of the accused at the spot was not denied. No explanation was given as to why the accused in the quarrel inflicted injuries to the complainant. Material facts deposed by the witness regarding the sequence of events leading to the infliction of the injuries remained unchallenged in the cross-examination. PW-2 (Krishan Lal), an independent witness from neighbourhood fully supported the complainant and corroborated his version in its entirety. He also implicated Ravinder Kumar for inflicting injuries to the complainant with a sharp edged weapon in his hand. PW-3 (Sonwati) and PW-4 (Sachin), wife and son of the victim, whose presence at the spot was natural and probable also supplemented the prosecution version and proved its case without any major discrepancies. PW-7 (Pushpa Sharma) also deposed that she had gone to lodge the complaint with her landlord Hukam Singh for the abuses hurled at her by the appellant who used to visit another tenant Usha in the said premises. In the absence of any prior enmity or ill-will, all these witnesses were not expected to falsely rope in the appellant and to let the real culprit go scot free. The ocular

testimony of the prosecution witnesses is in consonance with medical evidence. PW-5 (Dr.R.Dayal) medically examined Hukam Singh on 16.08.1996 and prepared MLC (Ex.PW-5/A). Minor discrepancies and contradictions highlighted by the appellants counsel about the non-recovery of the weapon of offence and PW-16 (Yusuf Khan) turning hostile are inconsequential and do not affect the core of the prosecution case. Evidence has come on record that injuries were caused with a sharp edged weapon. It makes no difference if it was scissor or knife. There is nothing on record to suggest that the injuries were accidental in nature. PW-5 (Dr.R.Dayal) was not crossexamined in this regard. The prosecution was able to establish that the appellant was the author of the injuries sustained by the victim - Hukam Singh.

3. The next question, which requires consideration is what offence is made out against the accused appellant. The Trial Court has convicted and sentenced the appellant for the offence under Section 307 IPC. For proving the case under Section 307 IPC, the prosecution has to prove that the accused while inflicting injuries to the victim, had an intention to cause his death or he had the knowledge that the act done by him may result in the death of the victim and if there is an intention or knowledge coupled with some overt act in the execution thereof, then the accused can be held guilty for the offence under Section 307 IPC. In the instant case, the initial confrontation had taken place with Pushpa Sharma at house No.271, Karkardooma. Pushpa Sharma went to lodge complaint against him to her landlord Hukam Singh who lived at house No.381, Karkardooma. Hukam Singh accompanied Pushpa Sharma to house No.271, Karkardooma and intervened in the quarrel. He pushed out the appellant who was under the influence of liquor and advised him not to hurl abuses. This resented the appellant and after a few minutes, he went to the house of the complainant at 381, Karkardooma and confronted him. At the initial stage, he did not give any injury to Hukam Singh. When the victim pushed him out of the house, the appellant stuck a single blow on his chest with a sharp object. He did not harm his wife and son standing nearby. He did not inflict repeated blows with the sharp object in his possession. There was no previous history of animosity between the complainant and the appellant. The crime weapon was an ordinary scissor or some sharp object whose nature could not be ascertained. PW-16 (Yusuf Khan) denied that

this scissor (Ex.P1) was recovered from his shop at the appellants instance. Nature of injuries was opined grievous by Dr.Rajesh, Senior Surgeon, who was not examined during trial. In the MLC (Ex.PW-5/A), depth of the injury was not indicated. Since the particular opinion has not been proved through the doctor who gave it and it is unclear on what basis he formed that opinion, it is not safe to hold that the injuries inflicted by the accused were grievous. The patient was conscious and oriented when he was taken to hospital for medical examination. The appellant was under the influence of liquor and injury was caused in a scuffle. In these circumstances, it cannot be inferred that the single blow inflicted was with the avowed object or intention to cause death. The conviction under Section 307 IPC, thus, cannot be sustained and is altered to Section 324 IPC.

4. Appellants nominal roll dated 06.12.2010 reveals that he suffered incarceration for six months and fifteen days besides earning remission for ten days as on 13.08.2001. Nominal roll further reveals that he was not involved in any other criminal case and had clean antecedents. His overall jail conduct was satisfactory. He has suffered the ordeal of trial / appeal for about fifteen years. Considering these mitigating circumstances, sentence order is modified and the substantive sentence is reduced to one year. Other terms and conditions of the sentence order are left undisturbed. The appellant shall, however, pay compensation ` 50,000/- to the complainant and shall deposit it within fifteen days before the Trial Court. The Trial Court shall issue notice to the complainant to receive the compensation.

5. The appeal stands disposed of in the above terms. The appellant is directed to surrender before the Trial Court on 16.01.2014 to serve out the remaining period of sentence. Trial Court record be sent back forthwith. (S.P.GARG) JUDGE
JANUARY09 2014/tr

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com