

State of Rajasthan Vs. Aslam and Another

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Court : Rajasthan Jodhpur

Decided On : Feb-16-2015

Judge : Gopal Krishan Vyas

Appeal No. : Cr. Leave to Appeal No. 15 of 2014

Appellant : State of Rajasthan

Respondent : Aslam and Another

Judgement :

1. The instant cr. leave to appeal has been filed under Section 378(iii) and (i) of Cr.P.C. by the State against the judgment dated 23.10.2013 passed by the learned Special Judge SC/ST Cases, Bhilwara in Sessions Case No.54/2010 by which the learned trial court acquitted the respondents for the offences under Section 323, 324 and 307 IPC and under Section 3(2)(5) and 3(1)(10) of the SC/ST (Prevention of Atrocities) Act.

2. As per the facts of the case the complainant Arun Kumar Khatik PW-4 gave statement at Mahatma Gandhi Hospital on 7.8.2010 at 12.30 p.m. that he and Suraj were taking tea in UIT Market, at that time, he received a telephonic call from his brother Nand Kishore in which it is stated by him that they went to the hospital for taking medicine but gate of Van was opened in front of hospital, therefore, they asked the vehicle owner to close the door, which was creating hurdle, at that time, Ayaz and Aslam came out and gave beatings to him and his

son Renu on the issue of not closing the gate of the vehicle. It is also stated that he and Suraj immediately came to the hospital and tried to intervene but Aslam abused him and inflicted injury by knife in the stomach. At that time, Jogendra Singh and Suraj tried to save him and due to the injury Suraj and Nand Kishore admitted in the hospital.

3. Upon aforesaid information FIR No.556/2010 was registered against the respondents under the aforesaid offences and after completing investigation, the charge-sheet was filed against the respondents under Section 323, 324 and 341 IPC and under Section 3(2)(5) and 3(1)(10) of the SC/ST (Prevention of Atrocities) Act. The case was committed to the Sessions Court and finally the trial took place in the court of learned Special Judge, SC/ST (Prevention of Atrocities) Act, Bhilwara.

4. In the trial, the statement of 16 prosecution witnesses were recorded and 19 documents were exhibited. Thereafter, the statements of respondents were recorded under Section 313 Cr.P.C. and no evidence was produced by the respondents in their defense.

5. The learned trial court after hearing both the parties acquitted the respondents from the charges leveled against them vide judgment dated 23.10.2013. Against that judgment, the State has preferred this cr. leave to appeal.

6. The learned Public Prosecutor vehemently argued that the finding given by the learned trial court for acquittal are totally perverse and contrary to the evidence on record, therefore, the judgment impugned deserves to be quashed. The learned Public Prosecutor further argued that as per the statement of all the injured persons case under Section 307, 324 and 324 IPC is made out, therefore, it is a case in which the learned trial court has completely ignored the testimony of injured eye witnesses PW-4 Arun Kumar, PW-3 Nand Kishore and PW-9 Renu. It is also argued that knife was recovered from the accused Aslam which is used for inflicting injury to injured Arun, therefore, on the basis of aforesaid evidence, the learned trial court was under obligation to consider so as to convict the respondents but contrary to law, the learned trial court gave finding for acquittal on the ground that prosecution has failed to establish its case beyond reasonable

doubt. Therefore, the impugned judgment deserves to be quashed.

7. The learned counsel appearing for the respondents vehemently argued that the instant case is the outcome of the rivalry because as per the evidence on record, the accused Ayaj was contesting election for Municipal Council, Bhilwara and alleged offence is prior to 10 days in which the father of Nand Kishore was also contesting the election. Further, it is argued that there is no independent witness on record. More so, those witness whose name were given by the injured PW-3 Nand Kishore, PW-4 Arun and PW-9 Renu turned hostile before the court and did not support the prosecution story. Further it is submitted that the injuries which are inflicted in the stomach is minor injury that too is simple in nature, therefore, it is a case in which the learned trial court has rightly arrived at a finding that prosecution has failed to prove its case beyond reasonable doubt. Therefore, no case is made out for granting leave to appeal to the State.

8. After hearing the learned Public Prosecutor and learned counsel for the respondents I have perused the entire judgment so also evidence on record. Admittedly, PW-2 Nand Kishore, PW-3 Arun and PW-9 Renu were examined in the court to prove the prosecutor story but none of the witnesses and other independent witnesses PW-1 Rajesh Trivedi, PW-4 Pappu Lal, PW-5 Jogendra, PW-6 Sunil Kumar, PW-7 Suraj Kumar khatik and PW-8 Sanjay Kumar supported the prosecution story with regard to incident and recovery of the articles. Meaning thereby, the prosecution is relying upon the statement of author of FIR and his two relatives but there is no evidence on record to support the prosecution story and the injuries, which is said to be found upon the body of injured are also not proved. The learned trial court come to the conclusion that in absence of independent corroborative evidence it cannot be said that prosecution has proved its case beyond reasonable doubt.

9. In my opinion, when there is no corroborative evidence on record, more so, the so called eye witnesses did not support the prosecution story then obviously, no error has been committed by the learned trial court in acquitting the respondents while giving benefit of doubt.

10. In view of the above, I see no reason to interfere in the judgment impugned or to grant leave to the State.

11. Therefore, this cr. leave to appeal is hereby dismissed.

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