

Ram Dhan and Etc. Vs. State of U.P.

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Court : Allahabad

Decided On : Aug-24-1995

Reported in : 1996CriLJ1803

Judge : T.P. Garg, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 34, 323 and 324

Appeal No. : Criminal Revn. Nos. 43 and 44 of 1983

Appellant : Ram Dhan and Etc.

Respondent : State of U.P.

Advocate for Def. : A.G.A.

Advocate for Pet/Ap. : Kesav Sahai, Adv.

Judgement :

ORDER

T.P. Garg, J.

1. This judgment will dispose of two Criminal Revisions bearing Nos. 43 of 1983 (Ram Dhan v. State of U.P.) and 44 of 1983 (Nathu v. State of U. P.).

2. The facts common to both these revisions are as under:-

The three applicants, viz., Nathu, Rohan and Ram Dhan, were tried for offences under Sections 323/324/34, I.P.C, vide judgment dated 9-12-1981 passed by the VI Addl. Munsif-Magistrate, Moradabad. All the three applicants were held guilty under Sections 323/324/34, I.P.C, convicted thereunder and sentenced to undergo R.I. for two months Under Section. 323/34, I. P.C and R. I. for one year and also to pay fine of Rs. 200/-, or in default of payment of fine to further undergo R. I., for two months Under Section. 324/34, I.P.C.

3. All the three applicants preferred appeal against the aforesaid conviction and sentence. The learned IV Addl. Sessions Judge, Moradabad, vide his judgment dated 7-1-1983 maintained the conviction and sentence awarded to all of them and dismissed their appeal with the modification that both the substantive sentences were to run concurrently. It is against the aforesaid judgment that two separate revisions have been filed; one by Ram Dhan, accused, and other by Nathu and Rohan, accused.

4. I have heard the learned counsel for the parties and also gone through the record before me.

5. Learned counsel for the applicants at the outset only prayed for a reduction in the sentence as it is more than a period of about 15 years that the accused have been undergoing the ordeal of a trial. He has not challenged the concurrent findings of the courts below on merits. The same are accordingly maintained. Even otherwise, both the courts below have given sound reasons for recording conviction of the accused and no infirmity whatsoever has either been pointed out, or is found in the impugned judgments. Dharampal and Ganga Ram suffered injuries at the hands of the accused. There were two sharp edge weapon injuries on the person of Dharampal. while Ganga Ram had two blunt weapon injuries. The evidence led by the prosecution is cogent and convincing and has been rightly believed by both the courts below. The ocular account rendered by the injured and the eye witnesses is consistent with the medical evidence on record. The defence version is in the nature of an excuse and has been rightly rejected by both the courts below. The conviction of the accused is thus maintained even on merits.

6. As regards sentence, suffice will it be to say that the entire occurrence took place on the spur of moment over the purchase of a small quantity of 'gur'. There was no premeditation or plan on the part of the accused to commit the crime. Thus, having regard to the facts and circumstances of the case as also that the occurrence took place on 24-12-1979, i.e. about a period of more than 15 years, the ends of justice will be amply met if the sentence is considerably reduced. Learned counsel for the applicants has submitted that all the accused have remained in jail for a period of about fortnight each. Thus, the period of sentence is reduced to that already undergone, while the amount of fine imposed upon the accused is increased from Rs. 200/- to Rs. 500/- each under Section 323/34, I. P.C. or in default in payment of fine, the defaulter to further undergo R. I. for one month under Section 324/34, I. P.C. This increase in the amount of fine be not deemed to be an enhancement in sentence.

7. The accused are given two months' time to deposit the amount of fine so imposed, i.e. Rs. 500/- each less the amount if already deposited. Out of the amount of fine as deposited, a sum of Rs. 1,000/- per paid to Dharampal, injured, P.W. and Rs. 200/- be paid to Ganga Ram, injured, P.W. by way of compensation.

8. With the aforesaid reduction in sentence, both the revisions are disposed of.