

Loknath @ Loku Vs. Mohan and Others

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Court : Madhya Pradesh

Decided On : Jul-04-2000

Reported in : 2000(3)MPLJ6

Judge : Mr. S.S. Saraf, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 223, 397 and 401;
[Indian Penal Code \(IPC\), 1860](#) - Sections 148, 149 and 307

Appeal No. : Criminal Revision No. 598/97

Appellant : Loknath @ Loku

Respondent : Mohan and Others

Advocate for Def. : Shri Arpan Pawar, Adv. and ;Shri R.N. Yadav, Panel Lawyer

Advocate for Pet/Ap. : Shri S.L. Kochar, Adv.

Disposition : Criminal Revision allowed

Judgement :

ORDER

S.S. Saraf, J.

1. Heard.

2. This is a criminal revision under Section 397 read with Section 401, Cr.P.C, against the order dated 27-6-1997 passed by the learned Additional Sessions Judge, Janjgir whereby the application regarding the framing of charge concerning the incident of the next day has been rejected.

3. The facts giving rise to this petition are these : The police of Police Station, Janjgir filed a charge-sheet against the respondent Nos. 1 to 12 for the offence under Sections 148 and 307/149, IPC. It is alleged that the respondent Nos. 1 to 12 inflicted injuries to several persons including Loknath, Bhagirath and Mayaram. They were admitted in the hospital. It was the incident of 10-7-1992. The nextday i.e. on 11-7-1992 Bhairo and Dhansai were taking food to the hospital. When they were on the way to the hospital, they were assaulted by the respondent Nos. 1 to 12. Bhairo had received serious injuries on his person. The matter was again reported to the concerned police. Bhairo was also admitted in the hospital and he remained there for about 30 to 35 days. After investigation, the concerned police filed a charge-sheet against the respondents 1 to 12 for incident dated 10-7-1992 and 11-7-92. The learned Judge however, framed charge against the respondent Nos. 1 to 12 with regard to the incident of 10-7-92 for causing injury on the person of Loknath, Bhagirath and Mayaram. The petitioner being the complainant in that case filed an application that charge may also be framed for the incident of 11-7-1992. The learned Judge by order dated 27-6-97 rejected the application on the ground that the separate charge-sheet should have been filed by the police against the respondent Nos. 1 to 12 because the both of the cases are separate. Being aggrieved by the impugned order dated 27-6-97, the present petition has been filed.

4. Having heard the learned counsel for both the sides, I am of the view that this petition deserves to be allowed.

5. A perusal of the impugned order indicates that the charge for offences took place on 10-7-1992 and 11-7-92 should have been framed as one charge-sheet was filed against the respondent Nos. 1 to 12.

6. The learned counsel for the petitioner submits that under provision of Section 223(c) Cr.P.C., a person committing more than one offences of the same kind

within 12 months should be charged and tried together jointly. He further submits that the respondent Nos. 1 to 12 should have been charged and tried together for the said offences.

7. It is apparently clear from the record that the offence allegedly committed by the respondent Nos. 1 to 12 are of the same kind which was allegedly committed by them within the period of 12 months. Under the circumstances, the impugned order passed by the learned Magistrate cannot be sustained in law, as it was not necessary for the prosecution to file a separate charge-sheet against the respondent Nos. 1 to 12 for the offence allegedly committed by them on 11-7-1992. The impugned order is grossly erroneous and therefore, the petition is allowed and the impugned order is quashed. It is directed that the learned Judge shall also consider the framing of charge for offences allegedly committed on 11-7-1992 by the respondent Nos. 1 to 12 and shall give opportunity to the prosecution as well as the accused to adduce evidence.

8. C.C. be given as per rules.

9. Criminal Revision allowed.