

Agara Ram Vs. State

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Court : Rajasthan Jodhpur

Decided On : Jul-17-2015

Appellant : Agara Ram

Respondent : State

Judgement :

-1- IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

JUDGMENT

Agara Ram versus State of Rajasthan D.B.Criminal Appeal No.79/2006 against the judgment dated 16.1.2006 passed by Additional Sessions Judge (Fast Track).Jalore Camp Bhinmal, in Sessions Case No.39/2005 (15/2005).Date of Judgment :: 17th July, 2015 P R E S E N T HON'BLE Mr.JUSTICE GOVIND MATHUR HON'BLE MISS JUSTICE JAISHREE THAKUR Mr.G.R.Punia, Senior Advocate, assisted by Mr.Dinesh Jyani, for the appellant.

Mr.J.P.Bhardwaj, Public Prosecutor, for the State...BY THE COURT : (PER HON'BLE MATHUR,J.) By judgment dated 16.1.2006 learned Additional Sessions Judge (Fast Track).Jalore Camp Bhinmal, recorded conviction of accused appellant Agara Ram son of Bhagwana Ram for the offences punishable under Sections 302 and 341 Indian Penal Code and sentenced him as under :- u/S.341 IPC - One month's simple imprisonment.

u/S.302 IPC - Life imprisonment with a fine of Rs.1000/- and in default of payment of fine further to undergo three months rigorous imprisonment.

-2- In brief, facts of the case necessary to be noticed for adjudication of this appeal are that on 9.8.2005 Shri Amraram (PW-1) submitted a written report (Ex.P/1) to Shri Anand Singh (PW-13). Station House Officer, Police Station Raniwara, stating therein that his family is having agricultural land with two wells and they are four brothers. He and Somaram are residing at the agricultural well situated close to village Matasan and two other brothers viz.

Nagaram and Devaram are residing at the well situated near agricultural land of Shri Ganga Singh.

A narrow path leads from the well of Nagaram towards western side connecting village Dhamseen to Badgaon Road.

At one end of the narrow path Agara Ram son of Bhagwana Ram (accused) has constructed a house and he is residing there with his family.

At about 03:00 PM of the same day Nagaram came to Amraram to have tractor to plow his agricultural fields.

It was further stated that Amraram instructed Nagaram to move towards the road and he will be following him on tractor.

Amraram when arrived to the main road, he heard some hue and cry and, therefore, returned towards narrow path.

He found that Agara Ram son of Bhagwana Ram was giving lathi blows to Nagaram.

Veenaram and Agararam son of Dheeraram intervened and then Agara Ram son of Bhagwana Ram fled from the spot.

Consequence to the incident Nagaram died.

The police on basis of the information aforesaid registered a case against Nagaram for the offences punishable under Sections 341 and 302 Indian Penal Code.

-3- During the couRs.of investigation autopsy on the corpus of deceased Nagaram was made and as per that the cause of death was haemorrhagic shock due to injury on vital organs.

The investigating agency arrested accused Agara Ram son of Bhagwana Ram and at his instance a lathi was recovered.

Statements of Agara Ram son of Dheeraram, Veenaram and Amraram were also recorded as per provisions of Section 161 Code of Criminal Procedure.

After regular investigation a police report as per provisions of Section 173 Code of Criminal Procedure was filed before the court of learned Judicial Magistrate FiRs.Class, Raniwara.

The case being sessions triable was committed to the court of Sessions.

The trial court after hearing learned Public Prosecutor and learned counsel for the accused appellant framed a charge against the accused for the offences punishable under Sections 341 and 302 Indian Penal Code.

On denial of the same, trial commenced as desired.

The prosecution supported its case with the aid of 13 witnesses and by exhibiting 25 documents.

Three witnesses viz.

Amraram (PW-1).Veenaram (PW-2) and Agara Ram son of Dheeraram (PW-3) were cited as eye witnesses.

Dr.

H.K.Chouhan (PW-10) adduced medical evidence and Anand Singh (PW-13) narrated all the steps taken during the couRs.of investigation being investigating

officer.

An opportunity was given to the accused appellant to explain the adverse and incriminating circumstances against him in prosecution evidence.

While availing the same he stated that deceased Nagaram was not knowing tractor driving and was learner only.

While coming on narrow path he drove -4- tractor towards boundary of the agricultural fields of Ganga Singh.

Nagaram was also under intoxication and, therefore, he fell down resulting into fatal injuries.

In defence statements of two witnesses viz.

Joitaram (DW-1) and Vagtaram (DW-2) were recorded.

Learned trial court after examining the entire evidence available on record held the accused appellant guilty for the offences punishable under Sections 341 and 302 Indian Penal Code.

In appeal, the only argument advanced by learned counsel for the appellant is that even by accepting the prosecution case the offence said to be committed by the accused appellant does not travel beyond an offence described under Section 304 Part-II Indian Penal Code.

Learned counsel substantiated his argument by pointing out the medical evidence available on record and the statements given by the eye witnesses.

On the other hand, it is stated by learned Public Prosecutor that the injuries given to the deceased by deadly weapon are sufficient to infer that the appellant was intending to kill Nagaram and, therefore, the trial court rightly held him guilty for the offence punishable under Section 302 Indian Penal Code.

Heard learned counsel for the appellant and the learned Public Prosecutor.

As already stated, as per the medical evidence available on record the cause of death of Nagaram was -5- haemorrhagic shock due to injury to vital organs.

As per the medical evidence available on record deceased Nagaram was having nine injuries but out of those one injury was on neck and one on chest causing fracture of two ribs.

The other injuries are simple bruises and abrasions.

Eye witness Amraram (PW-1) is real brother of deceased Nagaram.

As per this witness, at the time of incident, Nagaram was coming on tractor and at that time accused Agara Ram son of Bhagwana Ram came out and gave lathi blows on the head and neck of Nagaram.

Agara Ram son of Dheeraram and Veenaram who were also coming on the same narrow path intervened and looking to that accused fled from the spot.

Eye witness Veenaram (PW-2) stated that on 9.8.2005 at about 03:00 - 03:30 PM he and Agara Ram son of Dheeraram were going towards village from their house.

Amraram son of Kishnaram was also going on the same path.

Nagaram was coming on tractor behind them.

Agara Ram son of Bhagwana Ram (accused) was also coming on the same path and Nagaram made an effort to save him from apprehending accident by the tractor and because of this the tractor turned and moved towards the boundary of the agricultural fields.

Agara Ram son of Bhagwana Ram at this point gave lathi blow to Nagaram.

Nagaram fell down from the tractor and Agara Ram son of Bhagwana Ram again gave 2-4 lathi blows to Nagaram.

On intervention of this witness and Agara Ram son of Dheeraram, accused Agara Ram son of Bhagwana Ram fled from the spot.

-6- Eye witness Agara Ram son of Dheeraram (PW-3) also narrated the facts in same tune.

The facts stated by the eye witnesses indicate that the incident occurred as Nagaram committed some driving error while driving tractor on the narrow path.

Accused was also on the path and he also apprehended that he may be victim of error.

The deceased made an effort to save accused and in making that the tractor turned and entered into the agricultural field.

It appears that the accused looking to this incident became annoyed and gave lathi blows to Nagaram, who was driving the tractor.

However, there is no evidence to establish that the accused was having any motive to kill Nagaram.

There is no material available on record to establish any pre-planning or pre-meditation to commit the offence.

The entire incident occurred at spur of moment.

The accused was also not having any deadly weapon with him and he gave few lathi blows to Nagaram who also fell down from the tractor.

The possibility of receiving injuries to his chest causing fracture to ribs cannot be denied on falling from tractor.

The evidence available on record as such is not sufficient to infer that the accused committed any offence punishable under Section 302 Indian Penal Code.

However, in view of the statements made by the eye witnesses and looking to the medical evidence available on record it can very well be said that the act was done with the knowledge that it may cause death but without any intention to cause death.

As such, the crime committed is culpable homicide not -7- amounting to murder as described under Section 304 Part-II Indian Penal Code.

Accordingly, this appeal is allowed in part.

Conviction of accused appellant under Section 302 Indian Penal Code and the sentence for life term imprisonment are set aside.

The accused is convicted for an offence punishable under Section 304 Part-II Indian Penal Code and is sentenced to undergo rigorous imprisonment for a period of ten years with a fine of Rs.1000/-.

(JAISHREE THAKUR),J.

(GOVIND MATHUR),J.

Mathuria KK/ps.

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