

Ram Chander Vs. the State

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Court : Punjab and Haryana

Decided On : Jul-16-1959

Reported in : 1960CriLJ651

Judge : J.S. Bedi, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 307

Appeal No. : Criminal Appeal No. 155 of 1959

Appellant : Ram Chander

Respondent : The State

Judgement :

1. This appeal arises against the order of Shri Badri Parshad Puri, Sessions Judge. Karnal dated 27-1-1959 by which he convicted Ram Chander alias Ram Chand appellant under S. 307, Indian Penal Code, and sentenced him to three years rigorous imprisonment.

(2) The story for the prosecution briefly runs as under: Jagan Nath P.W. 2, a tailor, and Om Parkash P.W. 3, a dry cleaner carried on business in Model Town Karnal in the adjoining shops and resided in Jamna Camp. On 11-5-1958, at about 6-30 a.m. Ram Chander appellant, a rickshaw puller, who also lived in Jamna Camp, approached Om Parkash at his house and requested him for a loan of Rs. 10/-. Om Prakash, however, told him that he had no money to spare, whereupon the

appellant threatened Om Parkash of dire consequences and also at that time remarked 'Do you know me'. Om Parkash, however, after this talk felt nervous, contacted Jagan Nath P.W. 2 at the latter's house and conveyed to him the above threat.

Jagan Nath told Om Parkash to show him, the person who had threatened the latter in the above manner. Jagan Nath and Om Parkash accordingly started from there, and when they reached near the house of one Lal Chand, the appellant was found standing there. Jagan Nath P.W. questioned the appellant as to what the matter was and told him at the same time that the money could not be obtained by threat like that. The appellant also got enraged, challenged the right of Jagan Nath P.W. to question him like that and also started abusing him. He then pulled out a knife from his dab. The first blow was aimed at Jagan Nath's neck but he stretched his hands to ward off the same, as a result of which the blow fell on the index finger of his right hand.

The second blow of the appellant fell on the back of the left shoulder of Jagan Nath and another under the victim's left armpit and yet another on his back. Om Parkash, however, kept on entreating the appellant to refrain but the appellant started assaulting him also with his weapon and gave two blows on his head and another blow on his chest but it fell on his left arm. The alarm raised attracted Hukam Chand and Lal Chand and some others at the spot. Hukam Chand and Lal Chand took the injured to Civil Hospital, Karnal, in rickshaws. Dr. H. S. Bhandari, Assistant Surgeon attached to the Civil Hospital examined Jagan Nath on 11-5-1958 at 7.45 a.m. and found the following injuries on his person:

1. An incised wound $3/4'$ x $1/10'$ muscle deep on the back of left shoulder.
2. An incised wound $1 1/2'$ x $1/5'$ x $2'$, oblique running backwards in the left mid-axillary line, one inch below the left armpit.
3. An incised wound $3/4'$ x $1/5'$, $1 1/2'$ deep-oblique in direction in the left lumbar region of the back one inch from mid-line.

4. An incised wound $1\frac{1}{2}' \times 1\frac{1}{4}' \times 1\frac{1}{5}'$ skin deep on the root of right index finger, frontal aspect.

According to the doctor all the injuries were a few hours old and were simple. The injuries according to the doctor were caused by a sharp edged weapon.

(3) The same doctor on the same day at 7-50 a.m. examined Om Parkash P.W. and found the following six injuries on his person:

1. An incised wound $1\frac{1}{2}' \times 1\frac{1}{4}'$ scalp deep on the left parietal region of the head, one inch above and behind the ear.

2. A penetrating wound $1\frac{1}{4}' \times 1\frac{1}{6}' \times 1\frac{1}{5}'$ deep on the left temporal area in front of left pinna profusely bleeding. One end of the wound was tapering.

3. A superficial cut $1' \times 1\frac{1}{4}'$ linear on the left temporal region of the head.

4. An incised wound $1\frac{1}{2}' \times 1\frac{1}{6}'$ scalp deep on the right parietal region of the head.

5. An incised wound $1\frac{1}{2}' \times 1\frac{1}{2}' \times 3\frac{3}{4}'$, oblique, on the outer and lateral aspect of left upper arm in its middle.

6. An incised wound $1' \times 1\frac{1}{2}'$ muscle deep on the antero-medical aspect of middle of the left upper arm.

(4) In the opinion of the doctor all the injuries were simple in nature and were of a few hours duration and were caused with a sharp edged weapon.

(5) Abnash Singh, A. S. I., who happened to be in the hospital, came to know about the injured and recorded the statement Exhibit P. A. at the instance of Jagan Nath P. W. immediately. On the strength of the above statement, the case against the appellant was registered. Abnash Singh, A. S. I., received the information that the appellant was hiding himself in the fields across the canal bridge. He along with some others went towards that side. The appellant on seeing the police party started running carrying the knife. Gobind Ram, Foot Constable, and Abnash Singh, A. S. I. chased him. The appellant threatened the Assistant Sub-Inspector, who was very close to him, with the knife Exhibit P. 1. The Assistant Sub-Inspector

gave two or three blows with the danda which he was carrying and over-powered the appellant. The knife in question was also taken into possession which was bloodstained.

(6) Dr. H. S. Bhandari examined the appellant also on the same day at 8-30 p.m. and found as many as eight injuries on his person. All those injuries were simple and were caused by a blunt weapon. After due investigation, the appellant was sent up for trial.

(7) The appellant denied the allegations against him and alleged that during the days when this occurrence took place he was absconding in connection with a pick pocketing case in which he was wanted by the police. Sub Inspector Nazar Singh gave him beating at the police station and the injuries found by Dr. Bhandari were the result of that beating. He added that after beating him, the Sub-Inspector took him to strike the same on the ground and that during that striking he injured his palm. He further stated that he had defeated Kishan, servant of Om Parkash, in a wrestling match which upset Om Parkash. Om Parkash and others therefore conspired to kill him. In support of his plea he produced no evidence in defence.

(8) The prosecution examined six witnesses. The learned counsel for the appellant in this case did not challenge the conviction but submitted that all the injuries found on the persons of Om Parkash and Jagan Nath although caused by sharpened weapon were simple in nature, and therefore the proper section under which the appellant should have been convicted was 324 and not S. 307 of the Indian Penal Code. He added that S. 307 provides in terms for the punishment of a person who does any Act with such intention or knowledge and under such circumstances that if he by that Act caused death, he would be guilty of murder.

It is, therefore, clear that the only Act which could fall within the purview of the section is an Act which by itself must be ordinarily capable of causing death in the natural and ordinary course of events. If an injury was caused by a knife on the neck by the use of little force and was not such as would in the ordinary course of nature have caused death, the conviction of the accused under S. 307 is wrong and he should be convicted under S. 324. In support of his view he cited *Fatta v. Emperor*, AIR 1931 Lah 63 and *Wazira v. Emperor*, 41 Cri LJ 362, at p. 383: AIR

1940 All 113 at p. 114) wherein it is laid down:

'For the application of S. 307, Indian Penal Code, it is not necessary that the injury capable of causing death should have been actually inflicted. Whoever does any Act with such intention or knowledge and under such circumstances that, if he by that Act caused death he would be guilty of murder, is liable to punishment under S. 307, Indian Penal Code. If the injury is actually inflicted the nature of such injury may be of considerable assistance in arriving at the finding whether the accused had the intention of causing the death of the victim. The liability of an accused must be limited to the Act which he in fact did and should not be extended so as to embrace the consequences of another Act which he might have done but did not.'

He also quoted *Ghulam Sabir Amir Khan v. Emperor*, 43 Cri. LJ 595: (AIR 1942 Pesh 21(2)) in which the same view was held. With due respect I do not agree with the view taken in the above mentioned authorities.

(9) The relevant portion of S. 307 runs as under:

'Whoever does any Act with such intention or knowledge, and under such circumstances that, if he by that Act caused death, he would be guilty of murder'

I feel that in order to bring a case within the purview of this section, it is not necessary that the injury inflicted should in itself be sufficient in the ordinary course of nature to cause death. The language of the section makes it clear that even if mere hurt is caused by an Act which is done with such intention or knowledge and under such circumstances that if by that Act death is caused the offender will be guilty of murder, this section will apply. This section may apply even if no hurt is caused. For instance where an accused fired at the victim, but missed the target, in such a case if the victim had died as a result of that shot the case will be of murder and even if the accused missed the target, and the above facts are proved, the case would fall under S. 307.

It is evident therefore, that the presence of the injuries is not of vital importance. But the number and nature of the injuries would be helpful in finding out the

intention of the accused. Under this section the intention precedes the Act and it should be proved independently of the Act and not merely gathered from the consequences that ensue. All that is necessary to be established is the intention with which the Act is done and if once that intention is established, the nature of the Act will be immaterial. This view is propounded in *Wasudeo Balwant v. Emperor*, ILR 56 Bom 434: (AIR 1932 Bom 279) and *Ghulam Qadir v. Emperor*, ILR (1937) 18 Lah 111: (AIR 1937 Lah 619). The same view is taken in *Bharat Dube v. Emperor*, 42 Cri LJ 303: (AIR 1941 Pat 51) which lays down:

'In order that an Act shall amount to an attempt to murder all that is necessary to prove is that if the Act had caused death it would have amounted to murder provided that it was done with such intention or knowledge as would be necessary to be proved in the case of murder. The fact that an Act results in minor injuries or even in no injuries at all is not relevant for the purpose of deciding whether it amounted to an attempt to murder or not. Where a number of blows are struck at the neck of a person not in a position to defend himself and if the attack is successful the Act amounts to murder and when death does not result from such an attack it is an attempt to murder within the meaning of S. 307.'

(10) The same view is taken in *Bakbshish Singh v. State*, ILR (1952) 1 Patiala 258: (AIR 1952 Pepsu 138). I am in complete agreement with the authorities quoted later. In the present case taking all the facts and circumstances into consideration if the assault had resulted in the death of Jagan Nath or Om Parkash, the offence would have been murder. I, therefore, do not agree with the argument advanced by the appellant's counsel. Taking the entire facts and circumstances of the case into consideration I feel that the sentence is adequate. The appeal stands dismissed.

(11) Appeal dismissed.