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Ram Prakash Singh Vs. State of Bihar

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Court : Supreme Court of India

Decided On : Feb-03-1998

Reported in : AIR1988SC747; 1997(2)ALD(Cri)866; 1998(2)ALD(Cri)64; 1998CriLJ1622; JT1988(1)SC219; RLW1998(2)SC205; 1988(1)SCALE555; (1998)9SCC497; AIR 1998 SC 1190

Judge : G.T. Nanavati and; V.N. Khare, JJ.

Acts : Indian Penal Code (IPC) - Sections 302 and 304

Appeal No. : Crl. A. No. 146 of 1986

Appellant : Ram Prakash Singh

Respondent : State of Bihar

Judgement :
ORDER

Judgement pronounced by Nanavati, J.

1. The appellant was convicted by the Sessions Court, Monghyr under Section 302 IPC for committing the murder of one Ramswarath Singh. His conviction has been upheld by the Patna High Court.

2. It is not necessary to refer to the prosecution case or to the evidence led by the prosecution to prove its case, as the learned counsel for the appellant has

confined his submission to the nature of offence which can be said to have been committed by the appellant. The evidence on record discloses that accused Ram Prakash Singh and deceased Ramswarath Singh were friends. As a result of some misunderstanding between them their relations had become strained. Deceased Ramswarath Singh used to tell others that Ram Prakash Singh owed some money to him and was not paying the same. On the day of the incident, that is on 29.6.1976, accused Ram Prakash Singh met Ramswarath Singh near the Choraha of Mauza, Tilak Nagar. Ram Prakash Singh enquired from Ramswarath Singh as to why he is unnecessarily maligning him. That led to a hot exchange of words between them. During this altercation Ram Prakash Singh took out a knife and gave one blow to Ramswarath Singh.

3. What is contended by the learned counsel is that accused Ram Prakash and deceased Ramswarath had met accidentally and in a sudden quarrel which had taken place between them, both the deceased and the accused had become very angry and during the altercation that followed, in the heat of passion, accused Ram Prakash had given one knife blow. He had not tried to give a second blow even though Ramswarath had not fallen down. He further submitted that the doctor, who was examined in this case, has also not stated that the injury which was caused was sufficient in the ordinary course of nature to cause death. He, therefore, submitted that the conviction of the appellant under Section 302 IPC is not proper and illegal.

4. We find considerable substance in the contention raised by the learned counsel for the appellant. The fact that the accused and the deceased were friends and were working together in the credit investment bank opened by Ram Prakash Singh is not in dispute. The fact that a hot exchange of words took place is also deposed by all the three eye-witnesses. The evidence further shows that only one knife blow was given by the appellant without aiming it at any particular part of Ramswarath's body. The doctor, who had performed the post-mortem examination, has not stated that the injury, which was caused to the deceased, was sufficient in the ordinary course of nature to cause death. But for the sudden quarrel on that day there was no other reason for the appellant to cause an injury to his friend. Therefore, in view of the facts and circumstances of this case it will

have to be held that his conviction under Section 302 IPC is not proper and that he should have been convicted only under Section 304 II IPC.

5. We, therefore, partly allow this appeal. The conviction of the appellant under Section 302 IPC is set aside and he is convicted under Section 304 Part II IPC. For substantial period, the appellant had remained in jail, both as an under-trial prisoner and after his conviction. From the affidavit filed before this Court it appears that during the 21 years which have passed, the appellant has been living peacefully and is not indulging in any unlawful activity. It further appears that he has been helpful to the people of his locality. On 11.9.1988 he had risked his own life in order to apprehend the robbers and murderers of one Shankar Lal Bhartiya. He has been cooperating with police. His act of bravery and his co-operative ness have been appreciated by the Superintendent of Police, Begusarai, by issuing a certificate to that effect.

6. Considering the special facts of this case, we think that ends of justice would be met if the appellant is sentenced to imprisonment which he has already undergone and is directed to pay a fine of Rs. 10,000/-. In case of default of payment of fine, the appellant shall undergo rigorous imprisonment for a period of one year.

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