

Lachhman Vs. State

Lachhman Vs. State

SooperKanoon Citation : sooperkanoon.com/688107

Court : Delhi

Decided On : Jan-21-1987

Reported in : 31(1987)DLT245

Judge : Malik Sharief-ud-Din, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 328

Appeal No. : Criminal Appeal No. 31 of 1986

Appellant : Lachhman

Respondent : State

Advocate for Pet/Ap. : Kamlesh Dutt, Adv

Judgement :

Malik Sharief-Ud-Din, J.

(1) The appellant was found guilty of offences under sections 328 and 379 Indian Penal Code by an order dated 4-1-86 and was convicted for the same. By an order dated 10-1-86 the appellant was sentenced to undergo rigorous imprisonment for a period of four years and a fine of Rs. 500.00 , in default whereof he was directed to undergo further simple imprisonment for three months. This sentence was passed under section 328 Indian Penal Code while he was sentenced to rigorous imprisonment for one year under section 379 Indian Penal Code Both these

sentences were made to run concurrently by the learned Addl. Sessions Judge.

(2) The facts that resulted in the registration of F.I R. and the conviction of the appellant are that on 30th May 1984 one Babu Lal Public Witness 5 and Ram Sanhai Public Witness 6 along with one Maya Devi had gone to the railway Station, Nizamuddin New Delhi as they had to take a train for going to Chitrak in order to reach their village Avadhi. The appellant allegedly met them at the railway station and made them to believe that he too had to catch the same train. He in this manner joined their company. It is further alleged that since there was some time for the arrival of the train, the appellant took all these persons to a nearby park. Public Witness 5 Babu Lal at the time of incident was carrying an his person a brief-case, wrist watch, a transistor radio and some clothes besides Rs. 300.00 in cash while Public Witness 6 Ram Sanhai, uncle of Public Witness 5, was carrying Rs. 300 each and some clothes. After some time the appellant is said to have left the park and after a short-while be returned to the Park with Laddus which he offered to these persons and all of them became unconscious soon after consuming these Laddus.

(3) The short allegation against the appellant is that he offered some stupefying drug with intent to commit and facilitate the commission of theft and that soon after these people fell unconscious the appellant stripped them of their belongings and cash and then escaped. The further charge against the appellant is the he administered stupefying drug to these persons with the knowledge that it was likely to cause hurt.

(4) All the victims were removed to the All India Institute of Medical Sciences that very after-noon at about 5.15 Pm by Asi Ganesh Dutt. It is stated that the third person who had also been removed to the hospital had meanwhile left the hospital and her whereabouts were not known. Public Witness 2 and Public Witness 6 were treated in the hospital with result that they regained their consciousness somewhere during night. It was Public Witness 5 Babu Lal who narrated the entire sequence of events resulting in the registration of Fir 197/84 Police Station Nizamuddin. Statement of Babu Lal was recorded by ASI Daljit Singh. On 3rd June 1984 the investigating officer accompanied by Babu Lal and Ram Sanhai Public

Witness 5 and 6 went to the railway station, Nizamuddin in search of the appellant and on the identification by the victims the appellant was arrested in a park. At the time of his arrest apart from the belonging of these two persons, the appellant was found in possession of Rs. 50.00 in cash. All these articles were seized after these were identified by these two witnesses as belonging to them.

(5) The entire case of the prosecution rests on the testimony of Public Witness 5 Babu Lal Ran Sanhai Public Witness 6 as also Dr. Rakesh Kumar PW. 2 Doctor B.N. Bhandari of All India Institute of Medical Sciences had examined Babu Lal while Ram Sanhai Public Witness 6 was examined by Dr. Rakesh Kumar. An argument was raised before the trial court that there was no evidence that any poison had been administered to the victims. This was rejected on the ground that doctors had said that it is possible that the presence of poison may not be found in the contents of stomach as by that time the poison may have got totally absorbed in the blood. The doctors were of the firm opinion that no person who has not consumed a poisonous material could be possessed of the symptoms which were found in the victims. This, however, to me does not appear to be important otherwise also for the simple reason that under section 328 the requirement is not that poison only must be administered. This section says that even if a stupefying drug is administered with a view to facilitate the commission of an offence and with the knowledge that it is likely to cause hurt the offence will be complete.

(6) In the present case the trial court has rightly believed the testimony of Babu Lal Public Witness 5, and Ram Sanhai Public Witness 6. By no stretch of imagination or reasoning can it be suggested that these people are in any way inimical to the appellant and wanted to implicate him. It cannot be denied that these two victims became unconscious in the park and in that condition they were removed to the hospital where they got the treatment. I find no reason further to disbelieve the testimony of Public Witness 9 S.I. Jeet Singh who investigated that case in the beginning and on the identification of the victims Public Witness 5 and Public Witness 6 arrested the appellant in the park near Nizamuddin railway station after he was located and identified by the said victims. The belongings of the victims were also recovered from him along with Rs. 50.00 .

(7) Miss Kamlesh Datta, appearing as amicus curiae for the appellant urged that in the first statement of Babu Lal on which the case was registered, on details of the articles lost have been given and no description of the accused has been given. To my mind it does not appear to be very material. It is to be borne in mind that the victims of the appellant are petty labourers who were working in Delhi and were going back to their village with whatever little amount they had been able to save and with their normal belongings. The case of the defense is not that the mention about the article stolen has not been made but the case is that description has not been given. There is no reason to uphold (bis contention nor does it affect the prosecution case in any way. Whatever the argument raised, the fact of the matter is that the fate of the case rests on the fact as to whether the testimony of Public Witness 5 Babu Lal and that of Public Witness 6 Ram Sanhai is to be trusted or not. I have already made certain observations that there is no reason not to trust their testimony. The appellant was unknown to them. He has not claimed the articles which have been proved to have been recovered from him. His simple plea of innocence is of no help to him. The recovery of the articles belonging to the victims is by itself a circumstance which connects the appellant with the commission of this crime. In that view of the matter I find no force in the appeal so far as the merits are concerned.

(8) I may, however, take the last contention of the amicus curiae for consideration and it is that the appellant has been in jail ever since 3rd June 1984 when he was first arrested in this case. He is not a citizen of India and has come from Nepal and that the appellant has already undergone a sentence of two years and seven months. Her submission is that keeping in view the circumstances of the appellant and the sentence he has already undergone, the court may at least reduce the sentence to what the accused has already undergone.

(9) This submission of the learned counsel has been anxiously considered by me but I do not think it can be looked into in a case such as this The appellant seems to be a dangerous man who with a view to facilitate the commission of offence has learnt the art of befriending people and then administering stupefying drug to such people. It is very difficult to have sympathy for such criminals. I, therefore, find no ground to reduce the sentence. With these observations I find the appeal without

merit. Dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com