

Ram Narain Vs. the State

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Court : Delhi

Decided On : Jan-11-1984

Reported in : 1984(1)Crimes758; 1984(6)DRJ347

Judge : Jagdish Chandra, J.

Acts : [Indian Penal code, 1860](#) - Sections 323

Appeal No. : Criminal Appeal No. 148 of 1980

Appellant : Ram Narain

Respondent : The State

Advocate for Pet/Ap. : O.P. Soni,; Kamlesh Kumar and; D.R. Sethi, Advs

Judgement :

Jagdish Chandra, J.

(1) This criminal appeal filed by the convict appellant Ram Narain s/o Chhotey Lal r/o 1517 Tri Nagar, Delhi challenges' the judgment dated 9th April, 1980 passed by Shri R. P. Gupta, Additional Sessions Judge, Delhi, where by the appellant was convicted under Section 323 Indian Penal Code as also the order of sentence dated 10-4-1980 passed by the same court whereby the appellant was dealt with under S. 4 of the Probation of Offenders Act, 1958 and was directed to be released on his entering into a bond in the sum of Rs. 2,000.00 with one surety in

the like amount for a period of one year to keep the peace and be of good behavior for the aforesaid bond period of one year with a further direction to appear and receive sentence as and when called upon during the said period. He was also directed under S. 5 of the said enactment to pay compensation to the injured N.P. Rao in the sum of Rs. 250/- for the 'injuries suffered by him at the hands of the appellant and also another sum of Rs. 100/- as costs of the proceedings.

(2) The appellant had been committed to the court of session by Shri K. C. Lohia, Metropolitan Magistrate, Delhi vide his order dated 3-4-1979 for facing trial for the offence under S. 308 Indian Penal Code .

(3) Stated briefly the prosecution case against the appellant was that the appellant was working as a clerk in the Canara Bank branch at C-86, Shakti Nagar Extension, Delhi whereas the injured B.P. Rao was working as manager in that very branch. The appellant was not discharging his duties in a satisfactory manner for which reason the manager had sent reports to the Regional office on 2-7-78 and 3-7-78 against the convict recommending his transfer from the branch. The convict thus feeling angry with the manager entered the cabin of the manager between 11.00 a.m. and 12 noon and 4-7-1978 in the aforesaid bank premises and asked him why he had made reports against him and hit him with an iron rod in his head inflicting two injuries one on the left parietal region posterior size 1' and another on occipital region size 1' and as a result of which the manager started bleeding from his head. In the meantime two peons of the bank., namely Suresh Chander and Krishan Kumar rushed to the place of occurrence and rescued the manager from the appellant. The manager was removed to the clinic of Dr. Harish Chander Gupta, a medical practitioner in Kamla Nagar area who gave stitches on the aforesaid two injuries on the person of the manager. Sub Inspector Bhim Singh reached the aforesaid branch of the Canara Bank where from he went to the clinic of Dr. Harish Chander Gupta and recorded the statement Ext. Public Witness 2/A of the Manager B. P. Rao. The Fir was registered at Police Station Roshanara, Delhi on the basis of the rukka sent by S. I. Bhim Singh after recording the aforesaid statement of the manager. The injured Manager was sent to the police hospital for medical examination where Dr. S. Chaudhary examined him and noted

two injuries on his person which were stitched wounds. The appellant was challaned under S. 308 IPC.

(4) Though the two alleged eye witnesses, Suresh Chander and Krishan Kumar, peons of the bank did not support the case of the prosecution the learned trial court felt satisfied from the injured manager B.P. Rao (PW7) and found support for the same from the medical evidence and the Fir as also from the charge sheet Ext. Public Witness 5, Da served upon the appellant by the bank on 4-7-1978 as in this charge sheet it is mentioned that at about 11.00 A.M. the appellant entered the cabin of the manager and slapped him there and hit him a few times on his head with a wooden board which had been kept on the manager's table as a result of which the manager suffered serious head injuries. In this charge sheet there was also the mention about the happening in the morning of 4-7-1978 when the manager asked the appellant to discharge his duties in a satisfactory manner cautioning him that otherwise report would be made against him and on this the appellant had become angry with the manager. The defense version was discarded by the learned trial court.

(5) During the course of arguments the learned counsel for the appellant urged that there were discrepancies regarding the weapon of offence allegedly used by the appellant while in the process of attacking the manager as also the factum of the non-recovery of the said weapon of offence. He invited the attention of the court to the testimony of the injured B. P. Rao (PW) in which he deposed that on 4-7-1978 at about 11.30 A.M. the appellant came to his cabin and after abusing and threatening him suddenly hit him with a hard substance three or four times on his head. Then in his cross-examination he stated that he did not see the object with which he was struck in the head and that the police did not take into custody that object and that he was not aware if the object was wooden board or iron rod but in his earlier statement Ext. Public Witness 2/A to the police after the occurrence he had mentioned that he had been hit by the appellant with an iron rod with which statement the injured bank manager was confronted and the Explanationn given by him in support of this discrepancy was that he had not. told the police the weapon of offence as iron rod but a hard substance. It: was contended by the learned counsel for the appellant that the manager was not

telling the truth regarding the weapon of offence intentionally and that there was no corroboration regarding the weapon of offence. This contention of the learned counsel for the appellant hardly commends itself because there was hardly any point to be gained by the injured by the aforesaid discrepancy. Even if he had stated in his testimony during trial that he had been hit by the appellant by an iron rod instead of a hard substance, the result would have hardly been different. The medical report showing the two injuries on the person of the injured is there to support the version of the injured. The learned counsel for the appellant, however, contended that in the absence of the weapon of offence and in view of the aforesaid discrepancy pertaining thereto, there could be a difference in the manner of the two injuries having been received by the injured-one according to the version of the prosecution and the other according to the defense version. It would be noted that the defense version appeared for the first time only in the testimony of the two defense witnesses examined by the appellant and had figured nowhere at the earliest in the form of suggestion to the injured manager B. P. Rao or alleged eye witnesses, Suresh Chander (Public Witness

3) and Krishan Kumar (Public Witness

4) and not even subsequently in the statement of the appellant recorded under S. 313 of the Code of Criminal Procedure, 1973 and consequently this treatment to the defense version meted out even at the hands of the appellant renders the defense just an after thought and hence hardly genuine, The testimony of KanhayaLal(DW

1) tries to show that the manager B.P. Rao and the appellant Ram Narain had altercation inside the manager's cabin and that the appellant was assaulted by the manager and it was then in self-defense that the appellant Ram Narain pushed the manager B.P. Rao and the appellant then went out. Even the inference was stated by this witness to the effect that the manager got injured in his head on account of push given to him when his head struck the corner of the table and he bled from the head but in his cross-examination he has stated that he did not appear before the police in the bank, nor did he report to the bank authorities about the incident. He has also conceded that this bank has employees union of which he and the

appellant as also Pari Chand (DW

2) are also the members. Pari Chand (DW

2) has also conceded that he is a member of the employees union and so is the appellant Ram Narain and that there was an All India level bank Strike including their branch in December 1977. Both these defense witnesses are employees of this very bank. Thus, the defense witnesses were expected to side with the appellant even falsely because of their community interest being members of the same Employees Union which always entertains one grouse or the other against the managerial establishment. It appears to me for the same reason that even the alleged eye witnesses of the prosecution, namely Suresh Chander (Public Witness

3) and Krishan Kumar (Public Witness 4), both peons of this bank, did not support the prosecution. Krishan Kumar (Public Witness

4) has admitted in his cross-examination that he is a member of the same union of which Suresh Chander (Public Witness

3) and the appellant Ram Narain are also the members. The medical evidence in this case also belies and falsifies the defense version. There are two injuries one on occipital region and the other on the left parietal region. The learned trial court rightly observed that it was difficult that the injuries on parietal region could be caused by a push backward and that both these injuries could not be caused by one fall and there was no allegation regarding two falls having taken place. Thus, from the evidence on record of the case when the defense version hardly looks probable and on the other hand when the prosecution version appears to have been established beyond reasonable doubt, the non- recovery of the weapon of offence and even the discrepancy in regard to the same appear to be of no consequence.

(6) The learned counsel for the appellant did not raise any objection against the sentence, nor against the direction regarding the payment of compensation of Rs.250.00 as payable to the injured B.P. Rao, Manager for the injuries caused on

his person by the appellant or the payment of Rs. 100.00 as costs of proceedings of the case.

(7) No other point was urged before me and in view of the above discussion, the appeal fails and is consequently dismissed.

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