

Sat Narain Vs. State

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Court : Delhi

Decided On : Mar-04-1983

Reported in : 23(1983)DLT406

Judge : M.L. Jain, J.

Acts : Indian Penal Code (IPC) - Sections 392 and 397; Code of Criminal Procedure (CrPC) - Sections 464

Appeal No. : Cr.A. No. 172 of 1981

Appellant : Sat Narain

Respondent : State

Advocate for Def. : D.R. Sethi, Adv.

Advocate for Pet/Ap. : G.S. Vashist, Adv

Disposition : Appeal dismissed

Judgement :

M.L. Jain, J.

1. On 7-5-1979 at about 10.30 a.m. Jagdish Rai was going on his bicycle from his village to his Bhatta, near Bagh Wali Pulia. Accused Sat Narain along with one more both armed with knives met him. The accused stopped Jagdish Rai, carried

him behind the stacks of wheat hay heaped nearby, threatened with knives and relieved him of his wrist watch and Rs. 50/- kept in a diary containing the accounts of milk. Sat Narain told him to go away quietly having their knives in mind. The accused sped away on their bicycles. Jagdish Rai was walking back when he came across Ashok Kumar, Saran Kumar and Laxmi Narain and Jagdish Rai and related to them what had occurred. They cried thief and chased the accused. The accomplice of Sat Narain was able to escape, but they were able to apprehend the appellant with the help of the persons from the Railway Quarters near the Railway Station Narela. One of them was Dhani Ram of the Railway Protection Force. The accused was holding a knife in his hand and inflicted an injury on the back portion of the upper part of the left thigh of Dhani Ram. Some other persons who had come out with lathis, etc. in their hands invested the accused and also caused some injuries to him with the lathis held by them. S.I. Mohinder Singh (PW 8) who then happened to be patrolling the area came there with some staff and arrested the accused. He recovered a wrist watch found hanging from the wrist of the accused which was identified by Jagdish Rai to be his. He also recovered the knife which was of a prohibited category. The learned Additional Sessions Judge convicted the appellant Sat Narain under Section 392 read with Section 397 IPC and Section 27 of the Arms Act and awarded him rigorous imprisonment for seven years and two years respectively. Hence, this appeal.

2. I have heard the learned amices curiae and the learned Additional Public Prosecutor and have perused the record.

3. The learned amices curiae pointed out that there is a difference with regard to the time of occurrence as given in the FIR and the one given in the charge. According to the F.I.R. the time is 10.30, while according to the charge, the time is 1.30 p.m. I do not think that this should affect the findings and appears to be a mistake of typing and even otherwise would be covered by Section 464 Gr.P.G. It was further pointed out that there was no mention of the second companion in the charge. That again is immaterial because the police had not made out a case under Section 34 IPC as far as the accused is concerned. It does not affect the findings arrived at by the learned trial Judge-It was next pointed out that the victim was going on a cycle but that cycle-has not been produced. This was no error at

all as it was not a case property. The learned counsel then pointed out that Dhani Ram (PW 6) said that the watch was lying on the ground, while the other evidence is that it was hanging on the wrist. But the recovery memo shows that it was taken from the wrist of the accused. The learned amices curiae then painted out that the money and diary which were said to have been stolen have not been recovered. But this is also not material and may be the other accused may have taken them away. Lastly, it was urged that the accused was also injured and his injuries have not been explained. The learned amices curiae cited *Lakshmi Singh and Ors. v. State of Bihar* : 1976 CriLJ1736 , to urge that the omission to explain injuries of the accused renders the prosecution case unreliable and defense probable. But this case has no application here because the prosecution case is that the injuries have not been inflicted on the accused by the victims but by the persons who apprehended and collected there. There is thus no force in any of the contentions raised on behalf of the accused and since the knife that has been used for the commission of the offence was a deadly one, I think the learned Additional Sessions Judge was correct in finding him guilty under Section 397 IPC and Section 27 Arms Act and in sentencing him as aforesaid.

4. The appeal, therefore, is hereby dismissed.

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