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Court : Delhi

Decided On : Aug-08-1991

Reported in : 45(1991)DLT349

Judge : R.L. Gupta, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 482

Appeal No. : Criminal Revision Appeal No. 125 of 1991

Appellant : Harpal Singh

Respondent : State and ors.

Advocate for Pet/Ap. : U.S. Chaudhary and; R.K. Bahri, Advs

Judgement :

R.L. Gupta, J.

(1) This revision is directed against an order dated 27.3.91 of the learned Asj by which he framed charges under Section 304 Part 2 read with Section 34 Indian Penal Code against respondents 2 and 3, namely, Veena and Bala. The petitioner complainant feels aggrieved and prays that actually the charge should have been framed against these ladies under Section 302 read with Section 34 IPC.

(2) I have heard arguments advanced by learned Counsel for the parties. The revision is admitted.

(3) The case of the prosecution is based on the statement of the deceased Smt. Sunita given by her under Section 161 Cr.P.C. on 11.9.89. According to this statement on the date of the occurrence i.e. the same day she was returning to her house at about 7.30 P.M. after answering the call of nature. The accused persons, namely, Veena and Bala met her on the way. Veena told her that she was defaming her and she will teach her a lesson and saying this she started beating her while Bala accused held her by hands and when she fell, Veena is alleged to have continued to give blows on her chest and stomach. She raised noise. On hearing noise one lady Santosh came and rescued her. She was then taken to Hindu Rao Hospital where she was given treatment. However, finding that it was a case not fit for admission she was discharged at about 2.30 A.M. the same night. It then appears that she was still not feeling well. therefore, she was taken to Parshant Nursing Home. The doctors of that Nursing Home advised that she was in dire need of admission and therefore, she may be taken back to Hindu Rao Hospital. She was then taken to the Hospital where unfortunately she was declared brought dead. She was subjected to postmortem examination. In the post mortem examination no external injuries were found. In the opinion of the doctor the death was due to shock and haemorrhage consequent to injury in the abdomen.

(4) According to the learned Counsel for the petitioner, although there are no external injuries, the way in which the deceased was dealt with by the accused persons indicated that they had the intention to kill her. I have given my careful consideration to this aspect. I am of the view that it is not a case in which the charge under Section 302 read with Section 34 Indian Penal Code could have been framed against the accused persons. Learned Counsel for the petitioner drew my attention to the case of State of Uttar Pradesh v. Ram Sugar Yadav and others, : 1986 CriLJ836 wherein there was a merciless beating resulting in death of accused by Constables in the presence of the Station House Officer. As many as 19 external injuries were found in that case. I am of the view that the facts of that case are clearly distinguishable. Here there is no evidence of external injuries.

Beating was given with fists and legs only and that, too, by two ladies when the deceased and the accused came across suddenly. There was no premeditation also. I am, therefore, of the view that charge was rightly framed against the accused persons and there is no merit in the revision petition. The same is hereby dismissed.

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