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Ram Kishan and anr. Vs. State

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Court : Delhi

Decided On : Nov-25-1991

Reported in : 47(1992)DLT128

Judge : V.B. Bansal, J.

Acts : Code of Criminal Procedure (CrPC) , 1973 - Sections 437

Appeal No. : Criminal Miscellaneous (Main) Appeal No. 2215 of 1991

Appellant : Ram Kishan and anr.

Respondent : State

Advocate for Pet/Ap. : I.U. Khan and; R.N. Kapur, Advs

Judgement :

V.B. Bansal, J.

(1) Ram Kishan and Paras Ram have prayed for being released on bail in Fir No. 242/91, P.S. Mehrauli under Secs. 302/307/147148/34 IPC.

(2) There was an incident at about 11.30 a.m. on 4/08/1991infornt of House No. 260/3, village Chhatarpur within the jurisdiction of P.S.Mehrauli. Case was registered on the statement of Hem Chand S/o Mangat Ram.

(3) Briefly stated the prosecution story has been that on that day he along with his father Mangat Ram and brother Kanhayalal and Rati Ram took meals in the house and at about 11.30 a.m. he along with his brother Rati Ram came out of the house and noticed that Ukiliptus (ballies) which they had kept outside their house had rolled down. He noticed Tara Chand,Ram Singh and Raj Kumar present at their shop and an enquiry was made from them as to who had thrown the said Ballies on the road. The aforesaid persons started giving abuses and asked the complainant and his brother as to why they were not removing the same. Hem Chand made a request to them not to give abuses upon which both Tara Chand and Ram Singh brought lathis from their shop while Raj Kumar brought iron rod. Tara Chand and Raj Kumar gave injuries to Hem Chand while Ram Singh gave lathi blows to Rati Ram. Alarm was raised by Rati Ram upon whichKanhayalal and Mangat Ram came. In the meantime Prahlad came having a bamboo stick while Paras Ram was having a lathi and Ram Kishan came with an iron Palta brought from the shop. At that moment Mawasi also came having an iron pipe with him and gave exhortation to teach them lesson and to kill them. Tara Chand snatched the Palta from the hand of RamKishan and used the same for inflicting injuries to Kanhayalal and Mangat Ram while Prahlad gave lathi blow to Mangat Ram and Paras Ram gave lathi blow to Kanhayalal. Ram Kishan inflicted lathi blow to Hem Chand and hereafter they escaped.

(4) Learned Counsel for the petitioner has submitted that there was no pre-meditation and the incident took place suddenly. He has further submitted that in fact the incident started when Rati Ram and Hem Chand had a talk with Tara Chand, Ram Singh and Raj Kumar and other accused joined subsequently. He has further submitted that Raj Kumar, Paras Ram,Ram Singh, Mawasi arid Prahlad Singh from the side of the accused persons also sustained injuries and there is no Explanationn from the side of the prosecution as to how they had sustained injuries. He has further submitted that different persons could be responsible for their individual act and that it cannot be said that the petitioners are in any way connected with the death of Mangat Ram.

(5) Learned Counsel for the respondent has opposed this application and submitted that all the accused persons formed an unlawful assembly and it was in

pursuance of their common object that injuries were inflicted to HemChand, Rati Ram and Kanhayalal resulting into the death of MangatRam. A prayer has, thereforee, been made that the application may be dismissed.

(6) I have given may thoughtful consideration to all these submissions and have also perused the MLCs and the statements of the eye-witnesses,

(7) A perusal of the statements of the eye witnesses makes it abundantly clear that Mawasi gave exhortation to his companions including the petitioner to teach them a lesson of entering into a quarrel and they should also be killed. It is only thereafter that injuries were inflicted to Mangat Ram by Tara Chand and Prahlad and the post-mortem examination in respect ofMangat Ram clearly shows that death was due to result of head injuries which was anti-mortem in nature can be produced by blunt force and sufficient to cause death in the ordinary course of nature. It is, thus, clear that injuries to Mangat Ram have been inflicted after the giving of two exhortations when the petitioners also participated and inflicted injuries to Kanhaya Lal and Hem Chand. There is no doubt that there are injuries to persons on the side of the accused persons which are however, simple in nature.

(8) Considering all the facts, I am clearly of the view that no case is made out for bail.

(9) As a result the application stands dismissed.

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