

Paras Ram and anr. Vs. State

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Court : Delhi

Decided On : Apr-27-1987

Reported in : 33(1987)DLT55

Judge : M.K. Chawla, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 34 and 324

Appeal No. : Criminal Appeal No. 366/76

Appellant : Paras Ram and anr.

Respondent : State

Advocate for Def. : Nemo

Advocate for Pet/Ap. : Dhanbir Singh, Adv

Judgement :

M.K. Chawla, J.

1. The learned counsel for the appellants has not challenged the correctness of the finding of fact by which the appellants were convicted under Section 324 read with Section 34 I.P.C. and sentenced to undergo R.I. for a period of 11/2 years and a fine of Rs. 200/- each. In default of payment of fine, they were further directed to undergo R.I. for 3 months. The only submission is that a lenient view in the matter

of sentence be taken inasmuch as the appellants have already suffered the agony of protracted trial of 2 years as well as the hearing of appeal after 11 years.

2. The submission of the learned counsel has much substance. PW-2 Laxmi Chand is the injured. He has given in minute details the part played by the accused persons in causing injuries to him, his wife and another person, with sharp-edged weapon. Originally, there were four accused charged with the commission of offences under Sections 307/326/324/452 I.P.C. read with Section 34 I.P.C. As per the case of the prosecution, on 25.9.1974 at about 4 A.M. while Laxmi Chand, was sleeping in his gher, when he was awakened due to noise. He saw Paras Ram, Dalel, Kewal and Chandgi, accused in the present case near his cot. He heard them saying that they would not spare Laxmi Chand and immediately thereafter attacked him. At that time, Paras Ram was armed with a Ballam, while Dalel was holding a jeli, and Chandgi and Kewal were holding lathis in their hands. Paras Ram attacked the complainant with Ballam which hit him on the chest. The other blows fell on his arms and thigh. Similarly, Dalel hit him with jeli causing injuries on his legs. On receiving these blows, the complainant fell down but before that, his wife who was lying nearby woke up and raised noise. One Dungar came there and tried to intervene but he was also given beating with lathis. As many other neighbours collected, the accused managed to escape from the scene of occurrence. The report was immediately lodged with the Police Station. The Investigating Officer Along with the Constables reached the spot without losing any time and completed the formalities at the spot. In due course of time, he collected the M.L.C.s from the hospital and the report from the office of C.F.S.L., prepared the report under Section 173 Cr.P.C. and filed the challan.

3. The evidence of Laxmi Chand stands fully corroborated from the evidence of his wife PW-3, Smt. Manohari Davi and PW-5 Dungar. Both these witnesses have received the injuries in that incident. Almost similar is the statement of PW-6, Prithi and happened to reach the spot immediately after the incident and helped the injured to be removed to the hospital. He also extended the helping hand to the I.O. in completing the formalities at the spot. In spite of lengthy cross-examination, the learned counsel for the appellant was not able to point out any discrepancy in between the statements of the eye-witnesses or the prosecution version. The

learned lower court, as observed earlier, gave benefit of doubt to Chandgi and Kewal Singh but held the other two responsible for causing injuries with sharp edged weapons to Laxmi, Manohari and Dungar. As the doctor, who examined the injured could not appear the offence of Section 307 IPC was converted under Section 324 read with Section 34 I.P.C. The order of conviction is hereby maintained.

4. On the question of sentence, the following are some of the mitigating circumstances which call for taking a lenient view in the matter :

(a) Admittedly, there is a long-drawn litigation between the parties regarding the plot of land in dispute;

(b) In this incident, both the parties received injuries and cross cases were registered. In fact, the injuries on the person of appellants were more serious than those on the complainant party;

(c) The accused faced a protracted trial in the lower court. The occurrence is dated 25th September, 1974 whereas the conviction was recorded after a gap of more than 2 years;

(d) The appeal in the High Court was filed on 14.10.1976 and is being taken up for the first time on 22.4.1987. The appellants have suffered the agony of their conviction during the interregnum.

(e) The appellant No. 1 is stated to be suffering from chronic asthma and his health has worsened. He is not in a position to earn his own livelihood or to support the family;

(f) His son Dalel Singh has renounced the world and his whereabouts are not known;

(g) Paras Ram has already suffered 20 days' imprisonment.

5. All these facts taken together do call for a sympathetic consideration. To my mind, no useful purpose will be served in requiring the accused persons to serve the remaining part of their un-expired sentence. The ends of justice, in my opinion,

will be fully met if the sentence of imprisonment is reduced to the one already undergone. The order imposing fine, if not already deposited, shall also stand set aside. Ordered accordingly. Criminal Appeal stands disposed of in these terms.

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