

Madan Lal Vs. State

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Court : Delhi

Decided On : Jul-14-1996

Reported in : 70(1997)DLT595; 1997(42)DRJ538

Judge : Jaspal Singh, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 397; [Arms Act, 1959](#); [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 313

Appeal No. : Criminal Appeal No. 262 of 1994

Appellant : Madan Lal

Respondent : State

Advocate for Pet/Ap. : K.B. Andley and; Seema Gulati, Advs

Judgement :

Jaspal Singh, J.

(1) Briefly stated the case of the prosecution is that on 12th October, 1992 while Shri Baldev Raj Sharma who was employed as Senior Supervisor with the Super Bazar, Mansarovar Park, Delhi was proceeding towards the United Commercial Bank, G.T. Road, Shahdara, he was waylaid and was robbed of Rs. 13,263.00 . The persons accused of having robbed him of the said amount were stated to be none other but the present appellant and his companion. It was claimed that the

appellant was armed with a knife and that the same was recovered while he was trying to make his escape good.

(2) To be fair enough to the learned counsel for the appellant he is pressing the appeal only on two grounds. Firstly, that the offence under Section 397 of the Indian Penal Code was not made out and secondly that conviction under Section 27 of the Arms Act was bad as no knife was used in commission of the offence.

(3) That the appellant had committed robbery stands proved beyond doubt from the statement of the victim Baldev Raj Sharma who has entered into the witness box as Public Witness 3. His statement finds support and corroboration from Constable Ravinder Kumar, Public Witness 2. It may be noticed that the appellant was apprehended and recovery of the amount in question was made after a chase and in the presence of the said constable. In any case, as already noticed above the appellant is not challenging the finding of the learned Additional Sessions Judge on the point that Baldev Raj Sharma was actually robbed of Rs. 13,263.00 on 12th October, 1992 by the appellant and by his companion.

(4) Can it be said that the offence under Section 397 Indian Penal Code is made out? The evidence on the record goes to show that the knife was not used for the purpose of commission of offence by Madan Lal at all. It was only when the appellant was chased and overpowered that a knife was allegedly recovered from him. This would not attract Section 397 of the Indian Penal Code. I do feel that under the circumstances even Section 27 of the Arms Act would also be not attracted. And, while I am on the question of knife, it may also be pointed out that no question was put to the appellant under Section 313 of the Code of Criminal Procedure regarding the alleged recovery of knife nor the knife was shown to him.

(5) For the reasons recorded above, I set aside the sentence and conviction of the appellant under Section 397 of the Indian Penal Code and so also under Section 27 of the Arms Act. However, the appellant is convicted under Section 392 of the Indian Penal Code.

(6) Coming to the point of sentence, I am informed by the learned counsel for the appellant that the appellant has already undergone incarceration for about three

years. The appellant is sentenced under Section 392 of the Indian Penal Code for the period already undergone. Nothing more need be said on the appeal which stands partly accepted in terms noticed above.

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