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Suraj Singh and anr. Vs. State

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Court : Delhi

Decided On : Jan-19-2000

Reported in : 2000IIAD(Delhi)776; 2000CriLJ1544; 84(2000)DLT93

Judge : Dalveer Bhandari, J.

Acts : Indian Penal Code (IPC), 1860 - Sections 324 and 326

Appeal No. : Crl. Appeal Nos. 28 & 33 of 1978

Appellant : Suraj Singh and anr.

Respondent : State

Advocate for Def. : Ms. Sima Gulati, Adv.

Advocate for Pet/Ap. : Ms. Ritu Gauba, amices Curia

Judgement :
ORDER

Dalveer Bhandari, J.

1. These appeals were filed by Bawa Gurcharan Singh, Advocate. These appeals are on board for quite some but no one has appeared for the appellants. thereforee, I appoint Ms. Ritu Gauba, Advocate, (2305, Chhatta Punjabian, Bahadur Garh Road, Sadar Bazar, Delhi-6) to assist the Court.

2. These appeals arise out of one incident. I proceed to dispose of both the appeals with this common order.

3. Brief facts which are necessary for disposal of these appeals are recapitulated as under :

4. Suraj Singh, appellant in Crl. Appeal No. 28/78 and Sant Ram, appellant in Crl. Appeal No. 33/78, who are son and father, respectively, and residents of R-416, J.J. Colony, Raghbir Nagar, Delhi had been committed by Shri Dinesh Dayal, Metropolitan Magistrate, Delhi, vide his order dated 6.10.1977 to stand trial on a charge under Section 307/34 IPC. It is alleged that on 3.1.1977 at about 7.30 p.m. both of them in furtherance of their common intention caused injuries to Vijay P.W. in front of House No. R-413 J.J. Colony, Raghbir Nagar, with such intention or knowledge and under such circumstances that if by that they had caused death of Vijay that would have been guilty of murder. The charge was read over and explained to both the accused who pleaded not guilty and claimed to be tried.

5. The prosecution case, as unfolded by Vijay, is that both the accused are his neighbours, that on 2.1.1977 Suraj accused, Prem P.W. and Saran Lal P.W. were gambling and a quarrel took place amongst them. Vijay intervened and on that evening he brought about an amicable settlement between them. Consequently all of them promised not to gamble in future in the street and also not to quarrel with each other.

6. It is further stated that on 3.1.1977 Vijay returned home from work at about 6 p.m. and while he was taking his meals at his house he heard the cries of Prem P.W. On hearing the same he and his brother's wife Smt. Rajo P.W. who was also present in the house and was taking meals, came out and they saw that both the accused had caught hold of Prem in front of his (Vijay's) house. Vijay asked Sant Ram accused as to why they were beating Prem. However, Sant Ram retorted that Vijay had no business to intervene and their quarrel was with Prem. Thereafter, it is stated that Sant Ram abused Vijay. Sant Ram caught hold of Vijay and Suraj inflicted a knife blow from behind, which land on the back of Vijay's left shoulder. Both the accused then fled away.

7. Thereafter, Vijay was removed to Willingdon Hospital. He was medically examined by Dr. S.P. Singhal in the casualty ward of Willingdon Hospital and was then referred to surgical emergency ward where he was treated.

8. FIR was lodged at Police Station Punjabi Bagh. After investigations were completed. Appellants Suraj Singh and Sant Ram were charged sheeted under Section 307/34 IPC. They pleaded not guilty and claimed to be tried.

9. The prosecution examined 14 witnesses in support of its case.

10. The accused denied the prosecution version in toto and came out with a parallel version of the incident.

11. Learned Addl. Sessions Judge convicted the accused Suraj Singh under Section 326 IPC and accused under Section 324 IPC. Learned Addl. Sessions Judge awarded rigorous imprisonment for three years to Suraj accused and a fine of Rs. 500/-, in default further rigorous imprisonment for three months. It was ordered that a sum of Rs. 400/- out of the amount of fine if realised be paid to the injured Vijay.

12. As far as Sant Ram, accused is concerned, learned Addl. Sessions Judge deemed it fit case for release on probation of good conduct. Sant Ram was directed to be released on his furnishing a bond in the sum of Rs. 2000/- with one surety in the like amount to be of good behavior and to keep peace for a period of two years.

13. Reliance has been placed on the judgment of the Supreme Court in the case of Sarup Chand v. State of Punjab: reported in 1987 (1) Crimes 818. In this case the appellant was convicted by the trial court under Section 161 IPC and under Sections 5(1)(d) read with Section 5(2) of the Prevention of Corruption Act, 1947. The conviction was upheld by the High Court. While maintaining the conviction the Supreme Court had reduced the sentence to the period already undergone on the ground that six years have passed from the date of the incident and this is the first time the appellant had committed an offence. In the instant case, 23 years have lapsed since the date of the incidence and the appellant has not been involved in

other criminal cases.

14. The learned amices Curiae also relied on the judgment of this Court in the judgment of Inder Parkash Shingal v. State : 38 (1989) DLT 5. In this case also the accused appellant was convicted under Section 161 Indian Penal Code and Section 5(1)(d) & 5(2) of the Prevention of Corruption Act, 1947. The Court reduced the sentence of the imprisonment of appellant to the period already undergone on the ground that the appellant has faced the agony of trial for about 18 years now.

15. The learned amices Curiae placed reliance on some of the decided cases in which their Lordships of the Supreme Court in the case of B.G. Goswami v. Delhi Administration; 1973 SCC 796, observed as under :

'Now the question of sentence is always a difficult question, requiring as it does, proper adjustment and balancing of various considerations which weigh with a judicial mind in determining its appropriate quantum in a given case. The main purpose of the sentence broadly stated is that the accused must realise that he has committed an act which is not only harmful to the society of which he forms an integral part but is also harmful to his own future, both as an individual and as a member of the society. Punishment is designed to protect society by deterring potential offenders as also by preventing the guilty party from repeating the offence; it is also designed to reform the offender and reclaim him as a law abiding citizen for the good of the society as a whole. Reformatory, deterrent and punitive aspects of punishment thus play their due part in judicial thinking while determining the question. In modern civilised societies, however, reformatory aspect is being given somewhat greater importance. Too lenient as well as too harsh sentence both loss their effica-ciousness. One does not deter and the other may frustrate thereby making the offender a hardened criminal. In the present case, after weighing the considerations already noticed by us and the fact that to send the appellant back to jail now after seven years of the agony and harassment of these proceedings when he is also going to lose his job and has to earn a living for himself and for his family members and for those dependent on him, we feel that it would meet the ends of justice if we reduce the sentence of imprisonment to

that already undergone but increase the sentence of fine from Rs. 200/- to Rs. 400/-. Period of imprisonment in case of default will remain the same.'

16. This case has been followed in a number of subsequent judgments by the Supreme Court and various other courts. In Ramesh Kumar Gupta Vs . State of M.P. : 1995 CriLJ3656 , while referring to the judgment of B.G. Goswami v. Delhi Administration (supra), the sentence of imprisonment was reduced to the period already undergone, in a case where the accused was convicted under Section 161 of the Indian Penal Code.

17. In the instant case, the incident had taken place in 1976. The basic facts regarding the delay are quite akin to the facts of Shri Ramesh Kumar Gupta Case (supra). The appellant had undergone some part of the sentence and faced trauma of criminal proceedings for almost 23 years.

18. On consideration of all the relevant facts and circumstances of this case, in my considered opinion the ends of justice shall be met by upholding the conviction of the appellants. However, the sentence of imprisonment of the appellant, Suraj Singh is reduced to the period already undergone.

19. No interference is called for in the appeal of Sant Ram, who was released on probation of good conduct.

20. The appeals are accordingly disposed of.

21. I would like to place on record my appreciation for the able assistance provided by Ms. Ritu Gauba, learned amices Curiae in this case.

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