

Kedarmal Vs. the Crown

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SooperKanoon Citation : sooperkanoon.com/750671

Court : Rajasthan

Decided On : Feb-05-1949

Reported in : 1950CriLJ799

Judge : Ramabhadran, J.C.

Appellant : Kedarmal

Respondent : The Crown

Judgement :

ORDER

Ramabhadran, J.C.

1. The petitioner was convicted by Mr. E. D. Mehta, First Class Magistrate, of an offence under Section 326, Penal Code, and sentenced to undergo 6 months rigorous imprisonment. An appeal was dismissed by the learned Sessions Judge. Hence this revision petition.

2. Mr. C. P. Mathur for the petitioner, argued firstly that the offence, if any, was one Under Section 321, Penal code and not Under Section 326. He elaborated this point by reference to the statement of Dr. Srilal, Sub-Assistant Surgeon, to the effect that there were no marks of disfiguration on ML Gyarsi's nose unless it was carefully examined. The Injury Export Ex. 6 shows a cut 1' x 1/2' x 1/2' on the bridge of the nose, Dr. Srilal was examined as P.W. 4 on 8th June 1948, when he stated that the above-named injury was a grievous one and had been caused by a

sharp weapon like a' razor or a knife. He added that the internal wall separating the two nostrils was intact. I do not agree with the learned Counsel for the petitioner when he says that this does not amount to permanent disfiguration. The girl was examined by the doctor on 9th January 1948, Dr. Srilal made a statement before the Magistrate for the first time on 8th June 1948. Even on that day, he noticed a partial disfiguration on the girl's nose. A chance remark made by him to the effect that it may heal in future, provided the girl put on flesh and his further observation more than 3 months later, to the effect that the disfiguration was not very noticeable, cannot take the offence beyond the mischief of Section 326. Both the Courts below have held that the petitioner did commit this offence and in my opinion that finding must stand.

3. In the next place, learned Counsel for the petitioner urged that the sentence was excessive. I do not, however, agree. There are earlier rulings of this Court to the effect that nose-cutting is a very serious offence and such cases should, ordinarily, be committed to the Sessions. The sentence of 6 months rigorous imprisonment, under these circumstances, cannot be said to be excessive, The revision petition is accordingly dismissed.