

Bharat Kumar Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Jan-08-2004

Reported in : 2004CriLJ1958; RLW2004(2)Raj1160; 2004(2)WLC380

Judge : Shiv Kumar Sharma and; F.S. Bansal, JJ.

Acts : Indian Penal Code (IPC) - Sections 84, 302, 307 and 309

Appeal No. : D.B. Criminal Jail Appeal No. 641 of 2000

Appellant : Bharat Kumar

Respondent : State of Rajasthan

Advocate for Def. : R.P. Meena, Public Prosecutor

Advocate for Pet/Ap. : N.L. Gupta, Amicus Curiae

Disposition : Appeal dismissed

Judgement :

Shiv Kumar Sharma, J.

1. Instant appeal impugns the judgment dated August 29, 2000 of learned Additional Sessions Judge, Chhabra, District Baran, whereby the appellant was convicted as under:-

Under Section 302 IPC Life imprisonment and fine of Rs. 500/-, in default to further suffer six months R.I. Under Section. 307 IPC to suffer 10 years R.I. and fine of Rs. 500/-, in default to further suffer six months R.I. Under Section. 309 IPC to suffer six months S.I. The sentences were ordered to run concurrently.

2. In brief the prosecution case is that on November 15, 1997 informant Anil Kumar submitted written report with the Police Station Chhabra stating therein that appellant committed murder of Dinesh by inflicting blows with knife and caused injury on the neck of Raju. Thereafter the appellant caused injuries to himself with scissors and knife. Police Station Chhabra registered a case under Sections 302, 307 and 309 IPC and investigation commenced. Dead body of Dinesh was subjected to autopsy. Injuries received by Raju and appellant were examined, and appellant was arrested. On completion of investigation chargesheet was filed. In due course, the case came up for trial before learned Additional Sessions Judge, Chhabra. Charge under Sections 302, 307 and 309 IPC was framed against the appellant, who denied the charge and claimed trial. The prosecution in support of its case, examined as many as 14 witnesses. In the explanation Under Section. 313 Cr.P.C., the appellant claimed innocence. No witness in defence was however examined. Learned trial Judge on hearing the final submissions, convicted and sentenced the appellant as indicated here-in-above.

3. Main contention advanced on behalf of the appellant is that by reason of unsoundness of mind, the appellant was incapable of knowing the nature of the act, therefore, in view of Section 84 IPC, he did not commit any offence.

4. Meaningful question that requires consideration, therefore, is whether the appellant at the time of commission of offence suffered from insanity? And whether it was legal insanity so as to give the appellant the benefit of Section 84 IPC

5. It is well settled that the burden of establishing the plea of insanity is by virtue of Section 105 of the Evidence Act on the accused. Their Lordships of the Supreme Court in Dahyabhai Chhaganbhai Thakkar v. State of Gujrat (1), indicated that evidence that falls short of proving insanity may still raise a reasonable doubt about the requisite intention. It was observed as under:-

'The doctrine of burden of proof in the context of insanity may be stated thus -

(i) The prosecution must prove beyond reasonable doubt that the accused had committed the offence with the requisite mens rea; and the burden of proving that always rests on the prosecution from the beginning to the end of the trial;

(ii) There is a rebuttable presumption that the accused was not insane, when he committed the crime in the sense laid down by Section 84 IPC. The accused may rebut it by placing before the court all the relevant evidence oral, documentary or circumstantial but burden of proof upon him is no higher than that rests upon a party to civil proceedings;

(iii) Even if the accused was not able to establish conclusively that he was insane at the time he committed the offence, the evidence placed before the court by the accused or by the prosecution may raise a reasonable doubt in the mind of the court as regards one or more of the ingredient of the offence, including mens rea of the accused and in that case the court would be entitled to acquit the accused on the ground that the general burden of proof resting on the prosecution was not discharged.'

6. For the purpose of obtaining the benefit of Section 84 IPC the accused will have to establish the circumstances which alone will enable him to claim the said benefit. Section 84 IPC provides that 'Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act or that he is doing that is either wrong or contrary to law.' In dealing insanity following principles have to be borne in mind:-

(a) Unsoundness of mind as contemplated by Section 84 IPC is legal insanity which requires that cognitive faculties of the accused are such that he does not know what he has done or what will follow from his act.

(b) The court shall presume absence of insanity.

(c) To get the benefit of Section 84 IPC the accused must establish any one of the three elements necessary under the section, incapability of knowing (1) the

nature of the act, or (2) that the act was contrary to law or (3) that it was wrong.

7. Coming to the facts of the instant case, we find that Kailash Bai PW2, the wife of the appellant categorically deposed that the appellant was not of unsound mind at the time of the occurrence. It is trite that the legal conception of insanity differs considerably from the medical conception. It is not every form of insanity or madness that is recognised by law as a sufficient excuse. All minor aberrations of mind which are recognised by the medical science as amounting to madness are excluded in the eye of law. Even eccentricity or unsoundness of mind of a very minor type is not sufficient. It is not every kind of idle and frantic humour of a man or something unaccountable in his actions, which will show him to be such a mad man as is to be exempted from punishment.

8. In the case on hand, the appellant is not able to establish conclusively that he was insane at the time he committed the offence. Although in his statement under Section 313 Cr.P.C., the appellant stated that he was mad but this explanation falls short of proving insanity at the time of commission of offence.

9. Even on merits, we have before us the testimony of Raju, PW5, who is an injured eye-witness of the occurrence. Raju categorically deposed that he and his brother Dinesh were taken by the appellant to 'Tejaji Ka Chabutara'. There he tied red clothes on the idols and lighted incense-sticks. Thereafter Dinesh and Raju were tied by the appellant with ropes. Black bandages were wrapped by the appellant on the heads of Dinesh and Raju and knife injury was caused on the neck of Raju. Thereafter appellant inflicted knife blow on the neck of Dinesh and caused injuries to self with knife and scissors. The testimony of Raju is cogent and consistent and supported by Postmortem Report (Ex.P25) and injury reports of Raju (Ex.P23) and the appellant (Ex.P24). The appellant, in our opinion, has rightly been convicted and sentenced Under Sections 302, 307 and 309 IPC.

10. For the reasons mentioned herein above, we find no merit in the appeal, the same stands dismissed. Conviction and sentence awarded to the appellant by learned trial Judge are maintained.

