

Mustafa Vs. State and anr.

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Court : Rajasthan

Decided On : Mar-22-1978

Reported in : 1978WLN(UC)128

Judge : P.D. Kundal, J.

Appeal No. : S.B. Cr. Appeal No. 185 of 1978

Appellant : Mustafa

Respondent : State and anr.

Judgement :

P.D. Kundal, J.

1. This is an appeal against the judgment of the learned Sessions Judge, Sawai Madhopur dated 28th February, 1978. The accused was tried for an offence under, Section, 307 IPC, but was convicted under Section 323, IPC, and was sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs. 500/-, and in default to undergo further rigorous imprisonment for one month.

2. The learned Counsel for the accused appellant has contended that at the time of occurrence the accused was below 21 years of age. The incident is alleged to have taken place on 30th March, 1976. According to the school certificate the date of birth of the accused appellant is 6th July, 1959. It has been contended that the

accused appellant had gone to fetch his wife Mst. Saharbanu who was with her parents. As Mst. Saharbanu was not prepared to accompany the accused, a scuffle arose in which the accused beat her. According to the medical report, the following injuries were found on the body of Mst. Saharbanu:

1. Bruise 3 x 2 cm on right leg mid of shin
2. Bruise 2 x 5 cm on the right knee joint
3. Bruise 5 x 4 cm on left knee joint
4. Bruise 8 x 3 cm on left upper one fourth of fore-arm
5. Bruise 2 x 2 cm on left index finger root
6. Bruise 10 x 4 cm on right elbow joint and lower end of right upper arm
7. Bruise 3 x 3 cm on left tempoto maxillary area
- 8 Lacerated wound 3 x cm x scalp deep en frontal parietal region
9. Lacerated wound 1x cm x scalp deep on frontal aspect of scalp
10. Lacerated wound 3 x cm x scalp deep on the posterior an I towards right side of mid scalp

3. The learned Counsel for the accused appellant has contended that it is a fit case in which the benefits of Section 360, Cr PC 1973 read with Section 6 of the Probation of Offenders Act may be extended in the present case.

4. Mr. Khan, learned Public Prosecutor, appearing on behalf of the State has not opposed the extension of the benefits of the provisions of Section 360, Cr PC read with Section 6 of the Probation of Offenders Act to the accused appellant.

5. Having considered the entire set of circumstances and also with a view that the matrimonial relations of the accused appellant may not be broken, and also keeping in view the fact that the accused appellant was below 18 years of age on the date of occurrence, while maintaining the conviction of the accused appellant,

it is hereby ordered that the accused appellant shall not be sent to jail if he executes a personal bond for Rs. 1,000/- to the satisfaction of the Deputy Registrar of the High Court at Jaipur to maintain peace and to be of good behaviour for a period of one year and to undertake to appear before the learned Sessions Judge, Sawai Madhopur whenever called upon to do so to undergo the sentences awarded to him The personal bond is to be submitted within a week failing which the accused appellant shall be taken into custody to undergo the sentence awarded to him.

6. The accused appellant is personally present before the Court. An admonition has been administered to him. He has expressed unqualified apology, and has also verbally undertaken to be of good behaviour and to maintain peace.

7. The appeal is partly allowed as indicated above. The fine, if paid, by the accused appellant shall be refunded to him if he executes the bond to maintain peace and to be of good behaviour as ordered above.

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