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Hanuman Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Apr-05-2007

Reported in : RLW2007(3)Raj2109

Judge : Shiv Kumar Sharma and; Guman Singh, JJ.

Appellant : Hanuman

Respondent : State of Rajasthan

Judgement :

Shiv Kumar Sharma, J.

1. challenge in this appeal is to the judgment dated December 3, 2002 of the learned Additional Sessions Judge Kishangarh District Ajmer whereby the appellant was convicted and sentenced as under:

Under Section 307 IPC:

To suffer life imprisonment and fine of Rs. 5000/-, in default to further suffer rigorous imprisonment for two years.Under Section 326 IPC:

To suffer rigorous imprisonment for ten years and fine of Rs. 3000/-, in default to further suffer rigorous imprisonment for one year.Under Section 394 IPC:

To suffer rigorous imprisonment for seven years and fine of Rs. 2000/-, in default to further suffer rigorous imprisonment for six months.Under Section 324 IPC:

To suffer rigorous imprisonment for two years and fine of Rs. 1000/-. In default to further suffer rigorous imprisonment for three months.Under Section 447 IPC:

To suffer rigorous imprisonment for two months and fine of Rs. 300/-, in default to further suffer rigorous imprisonment for one month.The substantive sentences were ordered to run concurrently.

2. The prosecution story runs as under:

On September 4, 2000 at 8.15 PM at Yagya Narain Hospital Kishangarh, SHO Police Station Kishangarh recorded Parcha Bayan (Ex.D.1) of injured Poosi (PW.1) wherein she stated that on the said day around 2 PM while she was grazing her cows and buffaloes the appellant came armed with axe and asked her as to why she caused damage to the field and inflicted injuries with axe on legs and neck and removed her silver anklets. On that parcha bayan case under Sections 307, 326, 323 and 379 IPC was registered and investigation commenced. After usual investigation charge sheet was filed. In due course the case came up for trial before the learned Additional Sessions Judge Kishangarh District Ajmer. Charges under Sections 307, 326, 324, 447 and 394 IPC were framed. The appellant denied the charges and claimed trial. The prosecution in support of its case examined as many as 19 witnesses. In the explanation under Section 313 Cr.P.C, the appellant claimed innocence. No witnesses in defence was however examined. Learned trial Judge on hearing final submissions convicted and sentenced the appellant as indicated herein above.

3. Learned Counsel for the appellant has not challenged the conviction however his only contention is that since appellant was juvenile on the date of offence, sentence could not have been imposed on him.

4. Having scanned the material on record we notice that during the pendency of appeal we directed learned trial Judge on September 8, 2003 to make an enquiry about the age of the appellant on the date of incident. Pursuant to our direction,

learned Judge made an enquiry and submitted the report on October 13, 2003. A look at the report demonstrates that Medical Board comprising of Dr. P.C. Kasliwal and Dr. R.K. Mathur examined the appellant on September 24, 2003 and opined that on that date appellant was 22 years of age. Learned trial Judge also considered other documents and evidence produced before him and approved the opinion of Medical Board. Thus the age of appellant was 19 years on the date of incident. Evidently appellant was not juvenile on the date of incident.

5. Learned Counsel for the appellant canvassed that since the appellant was teenager imposing sentence of life imprisonment on him was too harsh. We have given our anxious consideration on this submission.

6. As already noticed the incident occurred while the cows and buffaloes of the victim damaged the field of the appellant. In rural landscape even today attachment with agricultural land is a part of life. Occupancy of land being the only source of survival, emotional attachment a part, the struggle for survival leads to fierce fight and resort to arms to protect possession. In the instant case finding his fields damaged the appellant lost his self control and committed the offence. Having regard to the age of the appellant on the date of offence and looking to the circumstances in which the offence was committed, we find it a fit case in which the sentence awarded to the appellant under Section 307 IPC deserves to be reduced.

7. For these reasons, we partly allow the appeal and while maintaining the conviction of appellant under Section 307 IPC we sentence him to suffer rigorous imprisonment for ten years and fine of Rs. 55,000/- (Rs. Fifty Five Thousand), in default to further suffer four years rigorous imprisonment. Out of the amount of the so deposited, a sum of Rs. 50,000/- (Rs. Fifty Thousand) shall be paid as compensation to the victim Poosi Conviction and sentences awarded to the appellant under Sections 326, 324, 394 and 447 IPC are maintained. The sentences shall run concurrently.

8. The impugned judgment of learned trial Court stands modified as indicated above.

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