

Bheek Singh Vs. the State

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Court : Rajasthan

Decided On : Mar-31-1978

Reported in : 1978WLN(UC)133

Judge : R.L. Gupta, J.

Appeal No. : S.B. Criminal Jail Revision No. 243 of 1977

Appellant : Bheek Singh

Respondent : The State

Disposition : Petition dismissed

Judgement :

R.L. Gupta, J.

1. The petitioner Bheek Singh has preferred this revision through jail against his conviction under Section 326 I.P.C. and sentence of of rigorous imprisonment for four years and a fine of Rs. 1000/- in default of payment of fine further rigorous imprisonment for six months. His conviction & sentence was passed by the Chief Judicial Magistrate, Barmer vide his judgment dated 18/4/1977. This was maintained in appeal by the Sessions Judge, Balotra, while dismissing the appeal of the petitioner vide his judgment dated 12/8/1977.

2. In brief the prosecution case was that one Kamal Singh the cousin brother of injured Gaj Singh was married to a girl in village Piluda to whom the accused Bheek Singh was betrothed. This is said to be the reason of animosity between the parties. On the intervening night of 3rd and 4th August, 1976 Gaj Singh injured was sleeping in his 'Bara' and in the dead of night the petitioner along with his other companions entered the 'Bara' duly armed. One of the companions Deep Singh struck a lathi blow on the person of Gaj Singh Deravar Singh and Veer Singh caught hold of the hands of Gaj Singh and asked to chop off his nose. The petitioner sat on the chest of Gaj Singh and chopped off his nose including some portion of the upper lip. On alarm being raised, other persons came on the spot. The F.I.R. was lodged in the next morning i.e., on 4/8/1976, by one Akhay Singh at the police station, Barmer. The petitioner was also arrested and on his information and at his instance the chopped portion of the nose and the upper lip were recovered. The injured Gaj Singh was examined for his injuries by Dr. Madan Lal Calla and the injury report is Ex P. 6 After necessary investigation the police challaned the petitioner as well as six of his other companions in the court of the Chief Judicial Magistrate, Barmer. The prosecution examined as many as 12 witnesses and exhibited certain documents to prove the prosecution case After trial the learned Chief Judicial Magistrate convicted the petitioner Bheek Singh for the offence under Section 326 I.P.C. Deep Singh, Deriver Singh, & Veer Singh were convicted under Section 323 I.P.C. & others were acquitted The accused who were convicted by the learned Chief Judicial Magistrate preferred an appeal to the Sessions Judge, Balotra against their convictions and sentences and that appeal was dismissed.

3. In the revision preferred by Bheek Singh I have perused the record and heard the learned Public Prosecutor.

4. It has been amply proved by the prosecution that the petitioner along with his other companions entered into the 'Bara' of Gaj Singh at the dead of night and assaulted him. It has also been fully proved that it was the petitioner who chopped off the nose of the injured Gaj Singh to the extent that some portion of his upper lip was also cut. According to the doctor Shri. Madan Lal Calla PW 7, this cut would on the nose cutting nose obliquely upper lip was 2 5' x 3' cartilage cut 1' of nose

remaining back; nose chopped off as well upper lip, only outer 1/3 of the lip both the sides remaining. The chopped off portion of the nose and the upper lip was also recovered on the information and at the instance of the petitioner. There is nothing to disbelieve the prosecution story. The offence under Section 326 I.P.C. has been fully proved against the petitioner beyond any shadow of doubt.

5. As regards the sentence it may be said that in the circumstances of the case the petitioner does not deserve any leniency in the matter of sentence. The injured Gaj Singh was sleeping in his 'Bara' in the night. It was at the dead of night that the petitioner along with his companions entered into the 'Bara' of the injured with an intention of committing such a heinous offence and the petitioner chopped off the nose including the upper part of the lip with the result that the injured Gaj Singh has been permanently disfigured. Looking to the circumstances of the case the sentence passed against the petitioner cannot be said to be excessive.

6. In the result, there is no force in this revision. It is hereby dismissed. The petitioner be informed accordingly.