

Munna Vs. State of Rajasthan

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Court : Rajasthan

Decided On : May-08-1986

Reported in : 1987CriLJ1399; 1986(2)WLN247

Judge : Guman Mal Lodha, J.

Appellant : Munna

Respondent : State of Rajasthan

Judgement :

Guman Mal Lodha, J.

1. This is one of those cases where I do not feel inclined to interfere even on the question of sentence, although the offence with which the appellant-accused is found guilty is Section 324, IPC, The appellant was sentenced under Section 324, IPC, to one year's R.I.-with a fine of Rs. 200/- in default of payment of fine, 3 months' R. I.

2. The circumstances of the case when considered and pondered more and more make the gravity and seriousness of the offence from bad to worse.

3. The appellant has been held guilty for causing incised wound by knife on the person . of the injured Babboo. The injuries found on the person of Babboo as per the medical evidence of Dr. M.M. Mishra (PW 1) are as under :

1. Incised wound 2 1/2 X 3/4 X 3/4' bone deep on the right cheek maxillary area, doubtful fracture, so X-ray was advised.
 2. Incised wound 2' X 1/2' X 1/4' on dorsal side right foot on 1st, second and third metacarpal area, oblique doubtful fracture, so X-ray was advised.
 3. Incised wound 2' X 1/2 X 1/2' on lower 1/3rd right leg on outer side oblique doubtful fracture, so X-ray was advised.
 4. Incised wound 2 1/2' X 1/2' X 1/4' bone deep on the left parietal area of scalp oblique doubtful fracture, so X-Ray was advised.
 5. Incised wound 1 1/2' X 1/4' X 1/4' on left parietal area of scalp transverse behind injury No. 4, it was simple.
 6. Incised wound 1' X 1/20' X 1/20' on back of left shoulder, movements free. It was simple.
4. Obviously, the injuries had been caused on the right cheek parietal area of scalp left shoulder, right foot and right leg.
5. Injury Nos. 1 and 3 have been found to be grievous, and injury Nos. 2 and 4 found to be simple.
6. The trial Court has considered whether Munna is responsible and liable for the injuries. The injured, Abdul Shakoor, was called by Munna and asked to accompany him for cutting hands and feet of one Kalyan. The injured refused to do so saying that he is a person having a family and this resulted in the incident where the accused-appellant Munna took out knife and started causing injuries one after the other.
7. Since other witnesses have turned hostile the case depends upon the testimony of Babboo and the medical evidence corroborating it. It was argued that since the injured has mentioned two witnesses Ibrahim and Mohd. Bashir, both of whom have stated that they came later on when Babboo was lying injured and, therefore, Babboo must be disbelieved. I am not inclined to accept this contention because these two witnesses have been treated hostile and rightly so. It was then argued

that there are some contradictions in the statement of Babboo from the prior statement to the police. I have also examined them and I do not find that there is much and serious contradictions.

8. When an injured is confronted with an accused whipping out a knife and causing a number of injuries by repeated attacks, psychological breakdown of the injured is a natural phenomenon. He cannot be expected to observe an attack on him, like a spectator sitting in air-conditioned cinema house, watching a movie. Natural impulse of the injured would be of save himself, change posture, try to escape when there are volleys' of knife attacks like gun fire as has happened in this case.

9. If there are minor variances in the description of chronological events, causing injuries, or exact place and the manner in which the knife was used, it only provides more credence to the credibility of the witness, and rules out concoction and tutorism. I am therefore, convinced that the present one is a case where the injured's statement is of sterling worth and supported by the medical evidence and deserves to be believed in toto.

10. As I have mentioned at the very threshold of my this judgment that the present one is a typical case where so leniency can be shown for the reduction of the sentence of imprisonment.

11. The reasons are manifold firstly the accused did not stop after causing one injury but continued his attacks like a desperadoes opening a volley of fire on an unarmed and undefended person. The fact that this all was done because the injured refused to be a criminal and resisted the direction of the accused that he should accompany him for cutting hands and feet of one Kalyan aggravates the seriousness of the offence.

12. I am, therefore, firmly of the view that in such cases, reduction of the sentence would be a misplaced leniency bordering on abetment of offence.

13. In the result, this appeal fails and is hereby dismissed. The accused-appellant, Munna alias Sirajuddin s/o Shahdeen Khan b/s Pathan r/o Chandra Ghata, Kota,

is on bail. He shall surrender to his bail bonds. The trial Court is directed to take steps, after forfeiture of his bail bonds, to get the appellant, Munna alias Sirajuddin, arrested and send him to jail to serve out the sentence recorded against him by the trial Court and upheld by this Court.

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