

Laxman Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Mar-13-1995

Reported in : 1995CriLJ3952; 1995(3)WLC304; 1995(1)WLN337

Judge : Rajendra Saxena, J.

Acts : [Probation of Offenders Act, 1958](#) - Sections 3, 4, 4(1), 5 and 5(1); Indian Penal Code (IPC) - Sections 307 and 324; Code of Criminal Procedure (CrPC) - Sections 313, 421 and 422

Appeal No. : S.B. Cri. App. No. 35/95

Appellant : Laxman

Respondent : State of Rajasthan

Advocate for Def. : R.S. Rathore, Public Prosecutor

Advocate for Pet/Ap. : P.R. Mehta, Adv.

Judgement :

Rajendra Saxena, J.

1 This appeal has been preferred against the judgment dated 15-12-94 passed by the learned Sessions Judge, Dungarpur, whereby he acquitted the appellant for the offence under Section 307, I.P.C. but convicted him under Section 324, I.P.C.

and by giving the benefit of probation of good conduct released him under Section 4(1) of the [Probation of Offenders Act, 1958](#) (in short the Act) and also imposed an amount of Rs. 2000/- as compensation under Section 5(1)(a) of the Act to be paid to injured P.W. 8 Sukh Lal within 15 days, in default to undergo, R.I. for two years.

2. Briefly the relevant facts are that on 15-4-92 at about 11 a.m., P.W. 8 Sukh Lal along with his wife P.W. 7 Smt. Leela was coming from Biliya Bus Stand and was going to his in-laws' house that in the way appellant Laxman voluntarily inflicted a stab wound by a knife in his abdomen causing injuries. Sukh Lal became unconscious and was taken to the hospital. P.W. 1 Dr. Vinay Kumar, P.H.C., Sagwara found following injuries on his person:-

1. Stab wound 1 cm. x .5 cm. x peritonium deep obliquely right to left side 1 cm. above umbilicus;
2. Abrasion 2 cm. x .5 cm. back of right index finger.

He was operated for the stab wound on abdomen and there was no complication. The doctor, therefore, opined that the stab wound sustained by Sukh Lai was simple in nature. After usual investigation the police submitted the challan for the offence under Section 307, I.P.C. in the Court of learned Munsif and Judicial Magistrate, Sagwara, in turn he committed the case to the learned Sessions Judge.

3. The appellant was charged for the offence under Section 307, I.P.C. to which he pleaded not guilty. The prosecution examined as many as eight witnesses. The appellant in his plea recorded under Section 313, Cr. P. C. denied the circumstances appearing against him in the prosecution evidence, but did not adduce any evidence in his defence. After trial the learned Sessions Judge by his impugned judgment acquitted the appellant for the offence under Section 307, I.P.C. but convicted him under Section 324, I.P.C. and while releasing him on probation also directed him to pay compensation of Rs. 2000/- to the injured. Hence this appeal.

4. I have heard Shri P. R. Mehta the learned counsel for the appellant and Shri R. S. Rathore, the learned Public Prosecutor for the State at length and carefully perused the record of the lower Court.

5. In this case except P.W.8 Sukh Lal and P.W. 1 Dr. Vinay Kumar Jain, who has proved the injury report Ex. P-I all other alleged eye-witnesses have turned hostile and did not support the prosecution case. P.W. 8 Sukh Lal has clearly deposed that appellant had stabbed a knife wound in his abdomen. His version stands duly corroborated by the medical evidence. The injury sustained by Sukh Lal was simple caused by a sharp edged weapon. In such circumstances the learned Sessions Judge has not committed any illegality in convicting the appellant for the offence under Section 324, I.P.C.

6. The main thrust of the arguments of Shri P. R. Mehta is that the amount of compensation imposed on the appellant by the learned trial Judge is exorbitant and disproportionate to the nature of the offence as also the injuries sustained by Sukh Lai and that the same should be reduced.

7. The learned Public Prosecutor has supported the impugned judgment and reiterated the reasonings given by the learned trial Judge.

8. I have considered the rival submissions. After convicting the appellant for the offence under Section 324 I.P.C. the learned trial Judge has directed for his release under Section 4 of the Act by giving him benefit of probation of good conduct on his furnishing personal and surety bonds for an amount of Rs. 2000/- to keep peace and be of good behaviour for a period of two years. However, he also directed him to pay compensation of Rs. 2000/- to the injured Sukh Lai and in default to undergo R. I. for two years.

9. Section 5 of the Act lays down that the Court directing the release of an offender under Section 3 or Section 4, may, if it thinks fit, make at the same time a further order directing him to pay such compensation as the Court thinks reasonable for loss or injury caused to any person by the commission of offence and that such amount ordered to be paid, may be recovered as a fine in accordance with the provisions of Sections 421 and 422, Cr. P. C. The recovery of fine can be made

either by issuance of a warrant for the levy of the amount by attachment and sale of any movable property belonging to the offender or by issuing a warrant to the Collector of the District, authorising him to realise the amount as arrears of land revenue from the movable or immovable property, or both of the defaulter. The order of the learned trial Judge that in default of payment of compensation the appellant shall undergo R. I. for two years is patently illegal and contrary to the provisions of Section 5 of the Act as also the provisions of Sections 421 and 422, Cr. P. C, which cannot be sustained.

10. As regards the quantum of compensation, I am of the considered opinion that it is arbitrary and highly exorbitant. Injured Sukh Lal had sustained a simple injury by a sharp object and an abrasion on his right index finger by blunt object. He was discharged from the hospital after operation. There is no evidence as to how much money has been spent by the injured. In this case, even the wife and mother of the injured have not supported the prosecution case and have been declared hostile.

11. Admittedly, the petitioner is an Adiwasi and a poor person. Therefore, keeping in view the simple injury sustained by injured Sukh Lal and the manner in which those injuries were inflicted to him, I am of ' the considered opinion that an amount of Rs. 200/ - as compensation will suffice to secure the ends of justice.

12. Accordingly this appeal is partly allowed and while maintaining the appellant's conviction for the offence under Section 324, I.P.C. the amount of compensation imposed on him under Section 5(1)(a) of the Act is reduced from Rs.2000/- to Rs.200/- (Rs. two hundred) only. The appellant will deposit the said compensation amount within thirty days, failing which the said amount shall be recovered from him in accordance with law.