

Mool Chand Vs. State of Rajasthan

Mool Chand Vs. State of Rajasthan

SooperKanoon Citation : sooperkanoon.com/760107

Court : Rajasthan

Decided On : Mar-07-1995

Reported in : 1995CriLJ4206; 1996(2)WLC60; 1995(1)WLN335

Judge : Rajendra Saxena, J.

Acts : Code of Criminal Procedure (CrPC) , 1974 - Sections 482; Indian Penal Code (IPC) - Sections 302 and 452

Appeal No. : Cr. Misc. Petn. No. 38 of 1995

Appellant : Mool Chand

Respondent : State of Rajasthan

Advocate for Pet/Ap. : Anand Purohit, Adv.; D.S. Rathore, P.P. and; N.S. Achary

Disposition : Petition dismissed

Judgement :

ORDER

Rajendra Saxena, J.

1. This petition filed under Section 482, Cr. P. C. is against the order dated 25-11 - 94 passed by the learned Addl. Sessions Judge, Bikaner, whereby relying on the opinion of the Medical Board, he held that the petitioner was capable of facing trial

and defending himself in the court and ordered for proceeding with the trial against him.

2. A case was registered against the petitioner for the offences under Sections 302 and 452, I.P.C. for the alleged murder of Vishnu Acharya. After usual investigation, a challan was filed against the petitioner for the offences under Sections 452 and 302, I.P.C. before the learned Magistrate, who committed the case to the learned Sessions Judge. During trial, a plea was raised on behalf of the petitioner that he was suffering from mental disease and was not capable of defending himself. The learned trial Judge directed the Superintendent, Psychiatric Centre, Jaipur to examine the petitioner and submit his report, who vide his letter D/- 12-11-90 reported that the petitioner was suffering from schizo affective psychosis and that after taking medication, he was feeling mentally fit and as such he was released from the Psychiatric Centre. The learned Addl. Sessions Judge also examined Dr. A. K. Singhal, C. W. 1, who stated that the petitioner had never under his treatment and that he had not examined him about his mental condition. C. W. 2 Dr. Pramod Bhardwaj was also examined/Thereafter, the petitioner was hospitalised and kept under observation of the Medical Board consisting of Dr. G. B. Advani, Prof. & Head and Superintendent, Psychiatric Centre, Dr. Shiv Gautam, Professor and Dr. Pradeep Sharma, Associate Professor, who in their report DA-29-10-94 have opined as under :-

'1) Higher mental functions : All higher mental functions, the parameters of which are, attention concentrations, memory, orientation, calculation, judgment, abstraction and insight were within normal limits. In other words this means that the patient is able to comprehend and reply to questions put to him, that the patient is fully aware of his environment and the changes therein, that the patient's mathematical ability matches his educational background, that the patient has a fair idea of social norms and social obligations and that the patient is aware of the fact that he had suffered from some mental illness.

2) The rest of the mental status examination reveals that the patient continues to have certain psychopathologic phenomenon viz. that the patient is slightly withdrawn and his social interactions are inhibited, that the patient is not very

cheerful, that the patient is not very cheerful, that the patient still has certain false ideas of persecution which however do not border to the level of delusions.

3) On the basis of above, the unanimous opinion of the medical board is that though Mr. Mool Chand still has some persisting psychopathology, while being on treatment, he is capable of facing trial and defending himself in the court of law and is also able to judge the likely consequences of his actions, at present. This report is about the present mental functioning of Mr. Mool Chand.'

3. Thus, the Medical Board has unanimously opined that though petitioner Mool Chand still has some persisting psychopathology but while being on treatment, he is capable of facing the trial and defending himself in the court of law.

4. The contention of Mr. Anand Purohit is that the said report pertained about the mental condition of the petitioner on 29-10-94 and that thereafter, the petitioner is still being treated for his ailment of schizophrenia and that he is incapable of making his defence. He has also shown me an outdoor patient ticket issued by Dr. J. N. Vyas, Bikaner, wherein he has prescribed certain medicines to the petitioner. However, no certificate of any doctor has been submitted on behalf of the petitioner, certifying that the petitioner is of unsound mind and consequently incapable of making his defence. Therefore, in such circumstances, it cannot be inferred that after 29-10-94, the petitioner has become incapable of making his defence due to his unsoundness of mind and incapacity and is incapable of defending himself. In my considered opinion, the application submitted by the learned advocate on behalf of the petitioner before the learned trial Judge regarding incapability of the petitioner of defending himself due to his unsound mind cannot override the considered medical opinion of the Board of Doctors. The learned trial Judge has, therefore, not committed any illegality in ordering for proceeding with the trial against the petitioner.

5. Therefore, for the reasons mentioned above, it is not at all a fit case for invoking inherent powers of this court and staying the trial of the petitioner. Accordingly, this petition stands dismissed. The record of the lower court be immediately sent back.

