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Court : Rajasthan

Decided On : Aug-08-1983

Reported in : 1983WLN359

Judge : S.S. Vyas, J.

Appeal No. : S.B. Criminal Jail Appeal No. 198/82

Appellant : Ratan Singh

Respondent : State of Rajasthan

Judgement :

S.S. Vyas, J.

1. This is an appeal by accused Ratansingh against the judgment of the learned Sessions Judge, Merta dated May 5, 1982 convicting the appellant under Section 304 part-I, IPC and sentencing him to eight years R.I. with a fine of Rs. 500/- in default to further under go three months like imprisonment.

2. Briefly stated the prosecution case is that the deceased-victim Lalsingh was a resident of village Ladpur Dist. Nagaur. The accused is also a resident of the same village. The relations between them were strained due their loyalty to different factions of the village.

3. On 5.3.81, the ration sugar was being sold in the Dharamshala of village Ladpur. P W. 2 Bajranglal was selling the sugar, while P.W.6 Ram Gopal was making entries in the Sale Register. P W. 7 Mangilal was weighing the sugar P.W. 1 Malsingh and some other persons were also there. The accused came there a little before 7 p.m. and purchased the sugar. He then sat in the room, in which the sugar was being weighed and started helping in taking the sugar out of the bags. At about 7 p.m. the deceased victim Lalsingh also came there to take sugar. Seeing the accused distributing the sugar, he refused to take sugar. He asked Bajranglal and others to drive out the accused from the room. He said, he would not take the sugar as it has become impure due to touch of the accused. He also addressed abusive and insulting words to the accused. The accused came out of the room and struck two blows with a dhariya on the neck of the victim and one on his back. He thereafter ran away. Lalsingh fell down and there was profuse bleeding from his wounds. His clothes got besmeared with the blood. The injuries proved fatal and he passed away then and there within a few minutes. P.W. 8 Raghunathsingh the brother of the deceased, on being apprised of the incident, immediately went to Police Station, Makarana and lodged written report Ex. P/12 of the occurrence at about 00.40 hrs in that very night. The police registered a case and proceeded with investigation. The Station House Officer P.W. 16 Bherusingh immediately rushed to the scene of occurrence and prepared the inquest report. He also prepared the site plan. The blood stained earth on clothes of the deceased were seized and sealed. The post-mortem examination of the victim's dead-body was conducted on 6.3.81 by P.W. 9 Dr. A.K. Sharma the then Medical Officer-in-charge, Government Dispensary Makarana. He noticed injuries on the neck and back of the victim's body caused by some sharp object. In his opinion, the cause of death was haemorrhage due to extensive injuries to the neck involving big vessels. The post-mortem examination report is Ex. P/13. The accused was arrested on 11-3-81. In consequence of the information furnished by him, whilst under police custody, Dhariya (Ex. I) with which the offence was committed, was recovered from his house. On the conclusion of investigation, the police submitted a challan against the accused in the court of the Munsif and Judicial Magistrate, Makarana, who in his turn committed the case for trial to the court of Sessions Judge, Merta. The learned Judge framed a charge under Section 302,

IPC against the accused to which, he pleaded not guilty and claimed absolute innocence. He put forward the defence of 'Alibi' and averred that he was in some other village at the time of the alleged occurrence. According to him, he was falsely implicated due to his strained relations with the deceased-victim. During trial, the prosecution examined 11 witnesses, while in defence two witnesses were examined. On the conclusion of trial, the learned Judge held that the accused had caused death of the victim, but that was on account of grave and sudden provocation given by the victim. He held that the victim had addressed abusive, filthy and insulting words, such as 'untouchable', 'dishonest' and 'enemy' to the accused. He, therefore, found that the act of the accused amounted to an offence under Section 304-I and not under Section 302, IPC. The plea of alibi was rejected as being totally false. The accused was, consequently, convicted and sentenced as mentioned above. Hence, this appeal.

4. I have heard the learned Counsel for the accused-appellant and the Public prosecutor. I have also gone through the case file carefully.

5. In the memo of appeal, the accused challenged his conviction. But keeping in view the overwhelming evidence of the four eye-witnesses viz PW. 1 Mai Singh, PW. 2 Bajranglal, PW. 6 Ram Gopal and PW. 7 Mangilal and the extra-judicial confession of the accused made before Gumanaram (PW. 3), the learned counsel appearing for the accused thought it proper not to challenge the conviction. He frankly conceded that he was unable to assail the conviction. The learned Counsel confined his arguments only on the question of sentence. It was urged that the sentence awarded was unduly harsh and heavy. What was done by the accused was in a fit of anger and commentary impulse. As such, a lenient view in the matter of sentence should be adopted.

6. In reply, the learned Public Prosecutor submitted that for an offence under Section 304 the sentence of 8 years can, by no means, be said to be excessive and no reduction is, therefore, called for.

7. I have bestowed my thoughtful consideration to the respective submissions. The adequacy of punishment has always remained a baffling question. No hard and fast rule can be laid down as to what would be adequate punishment in a given

case. However, certain broad factors such as gravity of offence, the circumstance in which it was committed, the presence of aggravating and extenuating circumstances, the age of the accused, the provocation if any and like such things have sprung up from judicial pronouncements, which furnish guidelines are taken into consideration in awarding the punishment. The court should pass such sentence as fits crime in each case. The punishment must be neither too severe nor too lenient. Attempt should be made to have a proportion between the gravity of the offence and punishment imposed.

8. It would be profitable here to have a reference to the golden rule of ancient Hindu Jurisprudence in matter of awarding punishment. Manu the first Jurist of global eminence and recognition said centuries ago in Chapter VIII of his Manusmriti:

vuqca/k ifj{kk; ns'kdkykS DoorA

jkikij/kh pkyksdk n.M n.Mns'kg ikr;srg AA

Translated into English, it means that while awarding the punishment, the place, time, nature of offence and such like matters should be taken into consideration. This is more or less in consonance with the modern guide-lines in the matter of awarding the punishment.

9. Now, in the instant case, what the accused did was in a fit of anger and momentary stimulus. The deceased-victim addressed disparaging and insulting abusive words to the accused, such as 'untouchable', 'enemy' and 'dishonest'. At times, bitter words hit harder than the bullet. One may bear an injury to his exterior but it is difficult to chew the injury to his in herself. It was the deceased-victim, who had invited the wale trouble. Had he not addressed disparaging and insulting abuses to the accused, there was no occasion for the accused to hit him. The accused was deprived of the power of self-control by grave and sudden provocation given by the victim. It was the stimulus at his instance, which invited his killing. Taking all the factors into consideration, the sentence of 8 year appears to be somewhat excessive. The ends of justice would be evenly balanced, if it is reduced to six years.

10. In the result, the appeal of accused Ratan Singh is partly allowed. His conviction under Section 304 Part-I IPC is maintained, but the sentence of eight years is reduced to six years. The sentence of fine is maintained.

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