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Court : Rajasthan

Decided On : Feb-18-1986

Reported in : 1986(2)WLN245

Judge : Guman Mal Lodha, J.

Appeal No. : S.B. Criminal Appeal No. 84 of 1977

Appellant : Jor Singh

Respondent : State of Rajasthan

Disposition : Appeal dismissed

Judgement :

Guman Mal Lodha, J.

1. Jor Singh appellant has filed this appeal against the judgment dated 13th February, 1977, of Addl. Sessions Judge, Sikar in sessions case No. 30 of 1975 conviction and sentence of the accused appellant under Section 436 IPC to two years rigorous imprisonment and a fine of Rs. 1000/- and in default of payment of fine to further undergo six months' rigorous imprisonment.

2. On 28th February, 1975 the accused-appellant Jor Singh reached the Dhani of Hardayal Singh at about 10 a.m. and then inquired as to way Ramu son of Hardayal Singh has not gone to graze the cattle. Hardayal Singh's wife informed

him that salary for two months amounting to Rs. 20/- has not been paid. The accused appellant felt enraged and put the thatch (Chhappar) of residential premises of Hardayal Singh to fire. Hardayal Singh's wife came out with her grand son, but the accused tried to stop her. However, when the flames of the fire started affecting the accused himself, then he left the premises and Hardayal Singh wife raised an alarm attracting neighbours & his husband also came from the field which was nearby. Even then the accused threw Hardayal Singh on the fencing and there was intervention by the accused's wife and mother, who rescued Hardayal Singh, and took the accused with them. There was a loss of Rs. 1500/- in addition to the currency notes of Rs. 140/-.

3. After the police report and the investigation, the accused was challaned and tried. After recording the evidence, conviction was recorded as above.

4. I have heard Miss Rajesh Kandwal for the accused-appellant and Shri S.B.L. Mathur, the Public Prosecutor and perused the relevant record of the case.

5. The most important evidence is of Smt. Champa w/o Hardayal Singh, who has stated that Ramu used to go to graze the cattle of the accused on payment of Rs. 10/- per month, but since the salary for 2 months was not paid, he, therefore, stopped going. This enraged accused Jorsingh who came there & made inquiries and when the answer was given, the accused felt enraged and in his anger put fire to Champa's thatched Champa tried to come out of the house, but the accused resisted and he gave the way only when the flames became unbearable for him also. Neighbours, Ramu and Hardayal Singh came there, but the accused-appellant threw Hardayal Singh on the fencing Ram has corroborated this evidence of Mst. Champa. So far as the responsibility of putting fire is concerned, Ram has heard this from Champa only because when he came the fire was already there. When the witnesses came there, then Jor Singh accused-appellant cried shouted and he had put it on fire and they may try if they can and extinguish it. Santa and Ramkumar have also corroborated it.

6. Santa is a neighbour of Hardayal Singh who is having adjacent house and, therefore, his presence is natural. Ramkumar was working nearby and he came there from about.

7. Much stress was laid for late filing of the First Information Report It appears that the endorsement on the FIR itself makes a mention that the delay was explained by the complainant. It is written that the complainant first went to Sarpanch of the Village who had gone to Sikari and, therefore, waited for his arrival.

8. Hardayal Singh died and could not be produced. The trial court has rightly held that there is nothing to disbelieve the explanation of delay mentioned on the FIR.

9. In the village it is usual tendency to first approach the Sarpanch and then get the complaint made through him or after apprising him and there is nothing unusual it.

10. I do not attach any importance to so-called delay in view of the well proved facts in this case.

11. The learned Counsel then submitted that in any case the sentence should be reduced. I am not inclined to accept this request also. It is a case where the accused acted in a very high handed manner by putting fire to the house of Hardayal Singh in broad day light. The motive and object of putting fire was to compel Hardayal Singh's wife to send her son to graze the cattle. It smells of a false ego in the accused who wanted to treat Ramu son of Hardayal Singh as his slave or bonded labour inspite of constitutional equality.

12. In this age of social justice such crimes where accused challenges human values and treat poor down trodden and under days slaves and commit atrocities to enforce their superiority and satisfy their false sense of ego deserve severe punishment in Jaw.

13. Consequently the appeal fails and is hereby dismissed. The accused-appellant is on bail. The trial court should take steps to send the accused appellant to jail.