

**State Vs. Saddiq**

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**SooperKanoon Citation :** [sooperkanoon.com/761518](http://sooperkanoon.com/761518)

**Court :** Rajasthan

**Decided On :** Sep-30-1975

**Reported in :** 1975WLN(UC)370

**Judge :** M.L. Jain, J.

**Appeal No. :** S.B. Criminal Appeal No. 604 of 1975

**Appellant :** State

**Respondent :** Saddiq

**Disposition :** Appeal allowed

**Judgement :**

**M.L. Jain, J.**

1. This is an appeal by the State against the judgment of the learned Munsif Magistrate Deedwana dated 31-3-1971 by which he acquitted accused Saddiq of the offences under Sections 324 and 323, IPC.

2. I have heard the arguments and seen the record. No one has appeared on behalf of the accused respondent.

3. On 24-9-68 one Mst. Suvti lodged a report Ex. P1 in the police station Deedwana that on 23-9-67 while her son Danaram was cutting grass in their field

in village Nimbi within the police station of Deedwana accused Saddiq son of Madari came and began to beat Dinaram. When Ramdev intercepted, Saddiq gave a 'kaser' blow to him Hearing the cries of Ramdev his mother Mst. Kesar rushed to his help but she was also beaten back by Saddiq with the wooden handle of his 'kaser'. They could be rescued only when one Sarwan from the neighbourhood came on the scene and challenged the accused. Accused Saddiq left his 'kassi' at the scene of occurrence. Mst. Suvti also got both Ramdev and Kesar examined by the medical officer of the Shri Bangur Hospital, Deedwana, before she made the report. The inquiry rep (sic) are Ex. P4 and Ex. P5. It appears from these injury reports that Ramdev received the following injuries : -

1. Linear wound 1' x 1/4' x 1/4' on the web between left thumb and index finger, caused by sharp weapon.
2. Linear wound 1/2' x 1/8' x 1/8' on the web of left thumb and index finger, caused by sharp weapon.
3. Abrasion 1' x 1/8' on the inner side of the right leg, middle third, caused by blunt weapon.

Mst. Kesar is said to have received the following two injuries.

1. Abrasion 1/2' x 1/8' on the left (sic) region.
  2. Bruise 4' x 1 1/2' on the outer side of middle part of right thigh
4. On the basis of the said first information report and the injury reports, the police registered a case under Section 324 and 323. I.P.C. against the accused and challenged him before the said Magistrate.

5. In the trial, the prosecution produced eight witnesses which included injured Kesar PW 3 and Ramdev PW 4 and the medical officer Dr. Prabhulal P.W. 8. Learned Magistrate however discussed the evidence only that of Mst. Suvti PW 2, Danaram PW 7 and Rameshwarlal PW 1. He rejected the evidence of Mst. Suvti on the ground that she narrated the evidence of occurrence as if she was an eye witness though there was no evidence that she watched it taking place She

relieved information of the occurrence perhaps when she was in Deedwana. Another ground on which Mst. Suvti was disbelieved was that she stated that her son Danaram had come to Deedwana to inform her. while Danaram stated that he was lying unconscious throughout the evening.

6. The evidence of Rameshwarlal was rejected by the learned Magistrate because there was a contradiction between his statement and that of witness Shridhar. Rameshwar stated that the accused ran away with the 'kassi' while Shridhar stated that the 'kassi' was produced by Mst. Suvti. The recovery memo Ex. P2 relating to the 'kassi' recited that Mat. Suvti produced the 'kassi' before the police saying that it was left by the accused in the field of occurrence. Witness Ramdav had on the other hand deposed that the 'kassi' had been snatched by them from the accused. The learned Magistrate also disbelieved that the recovery of the 'kassi' was made in the manner as was stated by the prosecution.

7. Another ground on which the prosecution case was rejected by the learned Magistrate was that the medical examination took place on 23.9.68, the first information report Ex. P1 was drafted by a lawyer and yet the first information report was lodged next day on 24-9-67 at 1.00 p.m. According to the learned Magistrate, the first information report was delayed without any satisfactory explanation.

8. On the grounds stated aforesaid, the learned Magistrate discarded the prosecution case and acquitted the accused of both the charges.

9. It is contended on behalf of the State that the learned Magistrate did not take into consideration the entire prosecution evidence on record and could not have rejected the prosecution case simply because Mst. Suvit was not an eye-witness yet the tenor of her first information report appeared to be so. The occurrence took place at 4.30 p.m. in the village of Nimbi and the report was lodged on 24.9.67. Meanwhile, Mst. Suvti was at Deedwana where she was approached by the injured persons, She got the injured medically examined and could have approached the police only after the doctor had certified the injuries received by them. The delay was thus satisfactorily explained.

10. I have examined the record and I find that both the injured Mst. Kesar PW 3 and Ramdev PW 4 were supported in their version by the medical officer Dr. Prabhulal PW 8, Danaram PW 7 and Sarwan PW 5. From the evidence of the aforesaid witnesses, it was clearly proved that accused Saddiq first began to beat Danaram and when Ramdev came to rescue him, Saddiq gave a 'kassi' blow to him. When Mst. Kesar came to intervene on behalf of her son Ramdev, the accused attacked her also. In his defence the accused produced one witness Srinivas D.W. 1/ that the field in which the quarrel took place belonged to him. Obviously, this evidence did not help the accused in any manner unless he attempted to show that he acted in self-defence.

11. But the learned Magistrate however, did not discuss the evidence of any witnesses except that of Mst. Suvti and the witnesses of the recovery memo Ex. P2. From an examination of the entire evidence on record, it is clear that the case against the accused was well proved and the judgment of the learned Magistrate deserves to be set aside as being patently erroneous and without legal appreciation of evidence on record. But it further appears to me that the occurrence took place in the year 1967 and we are now in the year 1975; the injuries which I have stated above are slight. The quarrel also appears to have taken place over the possession of the field. It will not therefore be proper at this distance of time to remand the case for retrial or myself to impose any sentence upon the accused. The appellant deserves to be enlarged on probation.

12. I therefore, accept this appeal, set aside the order of acquittal and convict the accused of the offences Under Section 323 and 324, IPC which he was charged with but instead of sentencing him, I direct that he shall be released provided he furnishes personal bond in the amount of Rupees, Five hundred with a surety bond in the like amount undertaking to appear and receive sentence when called upon to do so within a period of six months from the date he files the bond, and in the mean time to keep the peace and be of good behavior. The bond shall be furnished in the court of the learned Magistrate concerned within such time not exceeding two months as the said Magistrate may think fit permit.