

Jitendra Singh Vs. the State of Rajasthan

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Court : Rajasthan

Decided On : Feb-14-1991

Reported in : 1991WLN(UC)108

Judge : B.R. Arora, J.

Appeal No. : S.B. Criminal Revision Petition No. 115 of 1990

Appellant : Jitendra Singh

Respondent : The State of Rajasthan

Disposition : Petition allowed

Judgement :

B.R. Arora, J.

1. This revision petition is directed against the order dated April 30, 1990, passed by the Additional Sessions Judge, Bali, by which the learned Additional Sessions Judge discharged the accused respondents No. 2 to 6 for the offence under Section 307 IPC and sent the case to the Additional Chief Judicial Magistrate, Bali, under Section 228 Cr.P.C. to try the accused after framing the charges.

2. On June 16, 1989 a case under Sections 147, 323/34 IPC was registered at Police Station, Magartala against Armit Lal, Dinesh Kumar, Babu Lal, Sukan Raj and Phool Chand on the written report submitted by Jitendra Singh. It was alleged

in that report by Jitendra Singh that his brother Srawam Singh, when he was returning from his field on a tractor, the accused persons caught hold of him, took him to their house and gave beatings to him with an intention to kill him. He received so many injuries. The police, after necessary investigation, presented the challan against the accused under Sections 147, 323/34 and 307 IPC in the Court of the Additional Chief Judicial Magistrate, Bali. As the offence under Section 307 IPC was triable by the Court of Sessions, therefore, the learned Additional Chief Judicial Magistrate committed the accused to stand trial in the Court of the learned Additional Sessions Judge, Bali. The learned Additional Sessions Judge, after considering the evidence on record, came to the conclusion that as the injuries received by Srawan Singh were 15 in number but all these injuries are simple in nature and as per the report of the Medical Officer, the injuries were not sufficient in the ordinary course of nature to cause death. He, therefore, discharged the accused non petitioners No. 2 to 6 for the offence under Section 307 IPC and remanded the case to the Court of the learned Additional Chief Judicial Magistrate, Bali, for trial. It is against this order that the present petition has been filed by the complainant.

3. I have heard the learned Counsel for the petitioner, the learned Counsel for the accused non petitioners and the learned Public Prosecutor.

4. At the time of framing the charges, the truth, veracity and the effect of the evidence, which the prosecution proposes to produce are not to be meticulously examined. At this stage, the Court has only to see whether the unrebutted evidence, which the prosecution is to adduce, make put paca for conviction and if it is so then the charge can be framed. But if the unrebutted evidence itself does not disclose that the accused has committed the offence, then the charge should not be framed. The Court, while framing the charges, is required to evaluate the materials and documents on record with a view to find out if the facts emerging therefrom, taken out at their face value, disclose the presence of all the ingredients constituting the alleged offence and for this purpose, the Court has to evaluate the evidence at the initial stage and even the presence of a strong suspicion is sufficient to frame the charge against the petitioner.

5. In the present case, the injured Srawan Singh received as many as 15 injuries and even two injuries were found on the head of Srawan Singh and there were depressed fractures of the skull. Even a bone itself was missing. The injured when he was taken to the hospital, was unconscious and while treating the injured, the doctor stitched the wound on the head of the injured and there were about 94 stitches. In view of the injuries received by the injured and the part selected by the accused for inflicting the injuries, it cannot be said that the ingredients of the offence under Section 307 IPC are not made out in this case. At the time of framing the charges, what the Court has to see is whether the act, irrespective of its result, was done with the intention or knowledge and under the circumstances mentioned in the section. At this stage, if there is a strong suspicion with respect to the intention of the accused coupled with the overt act and the part selected by the accused in inflicting the injuries, then the accused can be charged under Section 307 IPC. In this view of the matter, I am of the opinion that the learned Additional Sessions Judge, Bali, was not right in discharging the accused for the offence under Section 307 IPC.

6. In the result, this revision petition, filed by the petitioner, is allowed. The order dated April 30, 1990, passed by the learned Additional Sessions Judge, Bali, discharging the accused non petitioners No. 2 to 6 for the offence under Section 307 IPC, is set aside and the learned Additional Sessions Judge, Bali, is directed to rehear the accused and to frame the charges and proceed with the trial in accordance with law after giving an opportunity of hearing to the accused.