

Jai Narain and ors. Vs. State

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Court : Rajasthan

Decided On : Nov-25-1975

Reported in : 1975WLN(UC)480

Judge : M.L. Jain, J.

Appeal No. : S.B. Criminal Appeal No. 962/1971

Appellant : Jai Narain and ors.

Respondent : State

Disposition : Appeal dismissed

Judgement :

M.L. Jain, J.

1. This appeal has been preferred against the judgment of the learned Sessions Judge, Jhunjhunu dated 23-10-71 by which he convicted the accused appellants as follows:

1. Jai Narain--(a) under Section 452 IPC. to rigorous imprisonment for two months:

(b) under Section 524 IPC, to pay a fine of Rs. 100/- in default whereof to undergo rigorous imprisonment for two months.

2. Prabu Ram & Lekh Ram--(a) under Section 452 IPC, to rigorous imprisonment for two months:

(b) under Section 324 read with 34 IPC, to a fine of Rs. 100/-in default whereof rigorous imprisonment for two months.

(c) under Section 323 IPC, to fine of 50/ in default whereof to rigorous imprisonment for one month.
3. Sujan Chand--under Section 324 read with 34; 323 and 452 IPC He was released on probation under Section 4 of the Probation of Offenders Act.
2. I have heard the arguments and seen the record. The brief facts are that on 5.5.68 at about 5 a. m the accused Jai Narain, Lekhram, Prabhu Ram and Sujan Chand entered the Nohra of Jagnaram and belabored Jagna Ram. Jai Narain gave a Farsi blow on the head of Jagna Ram and the remaining accused beat him with lathis. The occurrence was seen by Megh Singh Ram Niwas and Suhala sons of Jagna Ram and Madhi wife of Jagna Ram and Kaloo Ram Abir and Sugna Ram. The accused while fleeing the scene of occurrence also delivered lathi blows to Mst. Madhi and Suhala.
3. The medical report of Dr. Nawab Ali disclosed that Jagna Ram received an incised wound 4' x 1/2' x 2' on the right temporal region and 7 bruises covering the right thigh, right buttock, right leg, left thigh, left buttock left side of chest, and left scapular region and one abrasion on the right scapular region. Mst. Madhi got a lacerated wound on the buttock, one bruise on her left thigh and another on her right thigh. Ram Niwas had a lacerated wound on the forehead 1' x 0.3' x 0. 2'.
4. The case of the prosecution was proved by the evidence of Megh Singh PW 1, Ramnivas PW 2, Sohala PW 3, Sugna Ram PW 4. Madhi PW 6 and Jagna Ram PW 7. All of them corroborated the prosecution case.
5. Accused Jai Narain and Sujan Chand pleaded alibi Prabu Ram and Lekhram pleaded not pleaded not guilty. All the accused pleaded that the were falsely implicated because Suhala and Ram Niwas had stabbed Shri. In defiance they also produced Banal DW 1 who deposed that Jagna Ram was employed by him

for construction work Jagnaram fell down from the roof & suffered injuries. Ram Chandra DW 2 is a neighbor of Jagna Ram and stated that he heard do noise of any occurrence at the alleged time and place.

6. The learned Sessions Judge rejected the defence version and relying upon the evidence of the prosecution witnesses convicted and sentenced accused appellants as aforesaid.

7. The learned Counsel for the appellants submitted that the occurrence took place in the year 1968 and the learned Magistrate has awarded a sentence of two months imprisonment only to Jai Narain for causing a sharp weapon injury on the head of Jagnaram. The case of the accused appellant is not different from that Sukan Chand and all of them should given the benefit of probation. The age of Jai Narain was estimated by the learned Sessions Judge to be 50 years, the age of Prabhuram 33, Lekhrum 40 and Sukan Chand 24.

8. I have considered over this request and it appears to me that there is considerable force in what the counsel for the appellants has urged. The case of Sukan Chand and the case of Prabu Ram and Lekhrum are certainly not distinguishable. If, Sukan Chand was entitled to the benefit of probation then there appears little reason why the other two should not be similarly treated. As regards Jai Narain, looking to his age and the sentence that has been awarded to him he also appears to be similarly dealt with I therefore, conceding the circumstances of the case, nature of the offence and the character of the offenders, find it to be a fit case in which he benefit of probation should be extended to the appellants.

9. Consequently, I reject the appeal of Sukan Chand. I partly accept the appeal of Jai Narain, Prabu Ram and Lakhram and while maintaining their convictions, set aside their sentences and direct the instead, each of them shall be released provided he furnishes personal bond in the amount of Rs. 1000/- with surety in the like amount to the satisfaction of the learned sessions Judge undertaking to appear and receive sentence when called upon to do so within a period of one year from today and in the meantime to keep peace and be of good behaviour. The personal and surety bonds shall be furnished in the court of the learned Sessions Judge, Jhunjhunu within two months of the receipt of this judgment in his

court, If the appellants fail to so furnish the bonds the appeal shall be deemed to have been dismissed.

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