

Mani Ram Vs. State of Rajasthan

Mani Ram Vs. State of Rajasthan

SooperKanoon Citation : sooperkanoon.com/762963

Court : Rajasthan

Decided On : Oct-14-1987

Reported in : 1988(1)WLN8

Judge : K.S. Lodha, J.

Appeal No. : S.B. Criminal Jail Appeal No. 369 of 1985

Appellant : Mani Ram

Respondent : State of Rajasthan

Disposition : Appeal dismissed

Judgement :

K.S. Lodha, J.

1. Appellant Mani Ram has been convicted under Sections 392 and 323, IPC and sentenced to 7 years' rigorous imprisonment and a fine a Rs. 2,000/- under the first count; and three months' simple imprisonment under the second count by the learned Additional Sessions Judge, Hanumangarh, by his judgment dated October 7, 1985. He has filed this appeal through jail.

2. The prosecution story, briefly stated, is that on July 24, 1984 at about 4.00 p.m. accused-appellant Mani Ram, along with Madanlal and Ram Swaroop came to the house of Mani Ram, husband of Smt. Ankauri. They enquired about Mani Ram

and were told by Mst. Ankauri that he had gone to Jodhpur in connection with some hearing Thereupon, accused Mani Ram told Mst. Ankauri to prepare food for one person. Mst. Ankauri went inside the house and started preparing the food and the accused persons kept sitting outside the house. After sometime, Mst. Ankauri's son Ranveer came out with the food; whereupon, Mani Ram told Ramswaroop and Madanlal to catch hold of him. They, thereupon, caught Ranveer and when Ranveer raised a cry, Mani Ram gave a kick on his face. They then tied down Ranveer and shut him up in a 'Kotha'. On hearing Ranveer's cry, Mst. Ankauri came out. The three accused met her on the way inside the house and asked her to handover whatever valuables she had and told her that they have done away with her son. The accused persons are said to have given beating to Mst. Ankauri and snatched the key of the box from her. It is also alleged that Ramswaroop then went on the roof of the house and started firing and Mani Ram opened the box and took away the valuables and ornaments, the description of which has been mentioned in the FIR which was later on lodged by Ramrakh, elder brother of Mani Ram, the husband of Mst. Ankauri on the next day. It is alleged that on hearing the gun-fires made by Ramswaroop, Bhadar Ram son of Shri Ramrakh was attracted and he came towards the house and saw the accused looting, but on account of fear, he went away and informed his father, whereupon, Ramrakh also came there and he was informed by Mst. Ankauri about this dacoity. In the meantime, accused had fled away with the ornaments in a tractor which was standing in the gate-way of the house. The FIR was lodged by Ramrakh at 3.00 a.m. on July 25, 1981 at the Police Station, Tibi. Thereupon, the case was registered and the police started investigation. It is alleged that accused Mani Ram was arrested in connection with some other case of murder, on 25-7-1981 and during the course of his personal search, the ornaments said to have been taken away from the house of Mst. Ankauri were recovered from the Bala carried by Maniram. After completion of the investigation, the police put up chalan against the accused for offences under Sections 392, 394, 398, 326, 323 read with Section 34, IPC and the accused were committed to the court of Sessions and the case was then transferred to the court of Additional Sessions Judge, who framed charges under Section 392/397, 342 and 323, IPC of also under Section 27 of the Arms Act against Mani Ram and the same charges were framed against the other two

accused with the help of Section 34, IPC. The accused pleaded not guilty and were tried. On the trial, the learned Additional Sessions Judge found that so far as Ramswaroop and Madanlal are concerned their name were not mentioned in the FIR lodged by Ramrakh, but as names of Girdhari and Mani Ram were mentioned and that Mst. Ankauri also had not identified Ramswaroop and Mani Ram and, therefore, their presence and participation in the aforesaid offences was not free from doubt. He, therefore, gave them benefit of doubt and acquitted them, but so far as the present appellant Mani Ram is concerned, he convicted and sentenced him as aforesaid.

3. I have heard learned Amicus Curiae and the learned Public Prosecutor and have gone through the record.

4. It is urged by the learned Amicus Curiae that the prosecution story appears to be wholly doubtful and when the learned Additional Sessions Judge has partly doubted the same, so far as the other accused Madanlal and Ramswaroop are concerned, it cannot be believed against Maniram also. He further pointed out that Maniram's case is further made doubtful on account of the fact that the learned Sessions Judge has not relied upon the fact that Ranveer had been beaten or confined by the accused persons and therefore, there was no occasion for Ranveer to raise hue and cry so that his mother Mst. Ankauri could have been attracted. He further urged that similarly the learned Sessions Judge has not believed the evidence of Bhadar Ram and has observed that if Bhadar Ram was present at the spot, he would not have run away. That being so, according to the learned Amicus Curiae the fact of Ramswaroop being informed by Bhadar Ram in the night also becomes doubtful. He, therefore, urges that the accused Maniram should also get the benefit of doubt and should be acquitted.

5. Having gone through the evidence on record and having read the judgment of the learned Addl. Sessions Judge, I am of the opinion that this contention of the learned Amicus Curiae cannot be accepted. It may at once be stated that the learned Additional Sessions Judge has not disbelieved the story of Ranveer in as much as he has convicted accused Maniram for offence under Section 323, 1PC for giving kick on the face of Ranveer. So far as confinement of Ranveer is

concerned, that also he has not totally disbelieved, but what is stated is that the two other accused Ramswaroop and Madanlal, who were alleged to have tied and confined Ranveer had already been acquitted and the part played by Maniram in the said confinement has not specifically been stated and therefore, Maniram could not be convicted under Section 342, 1PC. This does not mean that he has really disbelieved Ranveer. Similarly although he has found the conduct of Bhadar Ram in running away from the spot unnatural, but I do not fully agree with him that the conduct of Bhadar Ram was wholly unnatural in as much as dacoity was going on and guns were being fired and he may not have thought it proper to enter the house of his uncle Maniram and might have thought it proper to go and inform his father about it and, thereupon, his father Ramrakh had come to the spot. Mst. Ankauri and Ranveer have fully supported the story mentioned above in their statements on oath, so far as Maniram is concerned and the facts stated by them are clearly corroborated by the presence of the injuries on the face of Ranver which has been proved by Dr. Bhimsingh PW6 and recovery of the ornaments from the person of Mani Ram when he had been arrested in connection with some other case under Section 302, IPC on the very next day of this incident. It is pertinent to note that Maniram has not claimed these ornaments. There is no reason to doubt the statement of Prahlad, Ray Javoiya, Deputy Superintendent of Police, Sangaria, who has effected the recovery. Nothing has been brought out in the cross-examination of these witnesses to doubt his statement. In these circumstances, the charges under Sections 392 & 323, IPC have fully been brought home against accused Maniram and the conviction recorded by the learned Additional Sessions Judge cannot be said to be improper. Faced with this situation, the learned Amicus curiae urged that the sentence awarded to the appellant is severe and should be reduced. He urges that he has already undergone six years' rigorous imprisonment. I am unable to accept this contention in the circumstances of the case. It may be mentioned that the accused had looted Smt. Ankauri a relation of his, as the accused Maniram is brother-in-law of Ramrakh, who is elder brother of Hari Ram husband of Smt. Ankauri. He had deprived her of considerable property and had caused injuries not only to Mst. Ankauri, but to her son Ranveer also. It also appears that he was involved in some other case. The character of the appellant, therefore, does not call for any

sympathy.

6. The result, therefore, is that the appeal fails and is hereby dismissed.

7. Before parting with this judgment, it may be stated that the learned Amicus Curiae has thoroughly prepared the case and had been very helpful to me in the disposal of the appeal.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com