

Lalkhan and ors. Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Apr-20-1988

Reported in : 1988WLN(UC)320

Judge : J.R. Chopra, J.

Appeal No. : S.B. Cr. Misc. Application No. 319 of 1987

Appellant : Lalkhan and ors.

Respondent : State of Rajasthan

Disposition : Petition dismissed

Judgement :

J.R. Chopra, J.

1. Learned Counsel for the petitioner objects to the condition imposed on the petitioners by the learned Sessions Judge while granting them bail in CR Case No. 214/1987 under Sections 307, 147, 148 and 149 IPC read with Section 27 Arms Act, which is as follows:

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fyf[kr opu nsdj fooknxzLr tehu ij fof/kd dk;Zokgh ds vfrfj dksbZ bl izdkj dk vijk/k
ugha djus dk opu fn;k tkrk gSa rks ml voLFkk esa ,sls vfHk;q&izkfFkZ;ksa bl izdkj
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2. The facts necessary to be noticed for deciding the admissibility of this petition briefly stated are that late Pritamsingh contracted two marriages. Out of his first wedlock, his first wife gave birth to one Tika Singh and when he contracted second marriage with Mst. Jasveer Kaur, it was agreed by Pritam Singh that 16 bighas of land will be set apart for maintenance of Jasveer Kaur. It is alleged that a document was executed in favour of Mst. Jasveer Kaur and that portion of land was assigned in her name in the revenue records. On the death of Pritam Singh, a dispute arose about the possession of this land. The case of the complainant is that one Kotha was existing on this 16 bighas of land and that was demolished by the petitioners in the night intervening between 27th and 28th October, 1987. It is alleged that on the next day, when they started to re-build that Kotha, the accused party came there and attacked the complainant party. The case of the petitioners is that on this disputed land, Mst. Jasveer Kaur and her supporters attempted to build the Kotha afresh and when they tried to resist that attempt, fight took place between them. Cross cases were filed by both the parties and the complainant party has been ordered to be On bail and while releasing the complainant party no condition was imposed where as while granting bail to the petitioner-party, this condition which has been quoted above was imposed. Mr. Kharalia has submitted that a civil suit is pending between the parties in which order to maintain status quo in regard to the possession of Mst. Jasveer Kaur has been passed, I pointedly asked Mr. Sandhu whether possession of this 16 bighas of land is recorded in favour of the petitioner-party in the revenue records but he submitted that he cannot commit himself any thing. When parties are fighting with each other, about a particular piece of land and while granting bail, a condition is imposed that no similar offence will be committed by the accused, that cannot be said to be excessive. It appears that the learned Sessions Judge after considering the application for grant of bail of both the parties thought it fit that the petitioner should only be allowed to prosecute their legal remedies about this land should not be allowed to take the law in their hands and, therefore, he imposed this condition that they will not commit similar offences. Such condition does not affect the liberty

of a man. It is no body's fundamental right to take the law in his own hand beyond permissible limits prescribed by the law itself.

3. Mr. Sandhu placed reliance on a decision of the Andhra Pradesh High Court in 1981 Cr. LJ 954, wherein it has been held that no such condition should be imposed which may deprive the person who has been granted bail affecting his personal liberty. In this order, the condition imposed only prohibits the accused-petitioners from committing similar offences. This does not amount to the curtailment of their liberty. In the facts and circumstances of this case, I feel that condition could have been imposed by the learned lower court while granting bail to the accused-petitioners. It is a discretionary order and under these circumstances, I do not feel inclined to admit this petition for revocation of the impugned condition incorporated in that order.

4. This petition is accordingly, dismissed

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