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Court : Rajasthan

Decided On : Feb-11-1992

Reported in : 1992(1)WLN181

Judge : Kanta Bhatnagar, J.

Appeal No. : S.B. Criminal Appeal No. 542 of 1979

Appellant : Arjun Singh

Respondent : The State of Rajasthan

Advocate for Pet/Ap. : Mr. Narendra Singh

Disposition : Appeal dismissed

Judgement :

Kanta Bhatnagar, J.

1. This appeal is directed against the judgment dated October 31, 1979 passed by the Additional Sessions Judge, No. 2, Hanumangarh by which appellant Arjun Singh was held guilty under sections 326 and 324 IPC and sentenced to 1 1/2 years RI on the first count and 6 months RI on the second count.

2. Briefly stated the facts of the case are that Kor Singh complainant has given his land admeasuring 11/2 kills for wheat cultivation to Arjun Singh appellant. In lieu of

that Arjun Singh and his son Nakshtra Singh were to look the field of Kor Singh. On March 26, 1978 at 9-9.15 p.m. there was turn of water of Kor Singh. At 9.00 p.m. Kor Singh went to the house of Arjun Singh and called him out. He was informed by Arjun Singh's wife and children that he had gone to the field for irrigation. Kor Singh went to the field. In the way he met Arjun Singh and his son Nakshtra Singh at a distance of 1 killa from his field. He told them that it is time for irrigation and why were they not doing that and in case they would not irrigate the field in time, he would not give wheat to them. Arjun Singh told him that he would come in that way. Kor Singh insisted upon his coming in time. There was hurling of abuses. Arjun Singh inflicted a 'gandasa' blow on the right hand and fingers of Kor Singh. Kor Singh's fingers were cut and fell down. Arjun Singh then gave a 'gandasa' blow on the head and left wrist of Kor Singh. Nakshtra Singh inflicted a lathi blow on his back. Kor Singh raised a cry which attracted Babu Singh and Sukhdev Singh. On their reaching the site, the assailants ran away from there. Babu Singh and Sukhdev Singh brought Kor Singh to his house and thereafter took him to hospital Sadulsahar. His statement Ex. P/1 was recorded in the same night at 11.45 A.M. and on its basis FIR, was chalked out. Case under Section 307,326,324,323 read with 34 IPC was registered. Prahlad Rai (PW 9) SHO, Police Station Sadul Shahar went to the site and proceeded with the investigation. He prepared the necessary memos. The blood stained clothes of the injured were taken in possession. The accused were arrested. In pursuance of the information furnished by Arjun Singh 'gandasa' was recovered. In pursuance of the information furnished by Nakshtra Singh one lathi was recovered.:

3. Upon completion of necessary investigation, chargesheet was filed in the Court of Judicial Magistrate No. 2, Hanumangarh. The case on Committal reached the court of Additional Sessions Judge No. 2, Hanumangarh. The learned Judge chargesheeted the appellants and recorded their pleas. Both of them denied the indictments and claimed to be tried. Nine witnesses were examined from the prosecution side. In their statements under Section 313 of the Code of Criminal Procedure, the accused denied the allegations levelled against them. Arjun Singh stated that on the day of occurrence after making the water flow in the field, he left the field. That, when he was at a distance of 2-3 bighas from his house, he heard the cry from towards the house and found his wife raising the cry that Kor Singh

had revised her. At this he inflicted lathi blow to Kor Singh while he was running. Kor Singh himself cut his fingers and falsely implicated him in connivance with the SHO and the Doctor. Nakshtra Singh stated that after making the water flow in the field, his father went away from there. As there was no injury on the back by any blunt object, the case against Nakshtra Singh was not held to be proved. However, the medical evidence supported the prosecution case regarding the sharp edged weapon being used in causing injuries to Kor Singh and his fingers being cut and the learned Judge held the appellant Arjun Singh guilty and passed the judgment under appeal.

4. I heard Mr. Narendra Singh, learned Counsel for the appellant and Mrs. Chander Lekha, Learned Public Prosecutor for the State and carefully examined the record of the case.

5. The learned Counsel for the appellant strenuously contended that prosecution case rests only on the statements of Kor Singh (PW1) and Baboo Singh (PW4) who are interested in the conviction of the accused because Kor Singh is the injured himself and Baboo Singh happens to be his brother. It has also been argued that non-examination of Sukhdev Singh is a serious infirmity in the prosecution case. That, the testimony of the defence witnesses has wrongly been discarded.

6. The appellant does not deny his duty to irrigate the field. His contention rather is that he did the work and then went away from there. So far as injuries are concerned, Dr. S.P. Jhakhad (PW 3), Medical Officer, Public Health Centre, Sadul Shahr has examined Kor Singh and prepared the injury report Ex.P/14. The Doctor noted following injuries on his Person:

1. Right thumb is completely cut from second phalanx round and distal portion missing.
2. Right Index finger is completely cut from terminal phalanx round and distal position missing.

3. Right middle finger is completely cut from terminal phalanx on dorsal aspect and second phalanx on palmar aspect obliquely and distal position missing.
4. Incised wound $1\frac{1}{4}' \times \frac{1}{8}' \times \frac{1}{3}'$ on dorso lateral aspect of rt. finger with fracture underneath probably.
5. Lacerated wound $\frac{1}{4}' \times \frac{1}{8}' \times \frac{1}{4}'$ on medial palmar aspect of rt. little finger.
6. Incised wound $\frac{1}{3}' \times \frac{1}{16}' \times \frac{1}{8}'$ on palmar aspect of first phalanx of rt. middle finger.
7. Incised wound $2\frac{3}{4}' \times \frac{3}{4}' \times \frac{1}{2}'$ on dorsal aspect of left hand from just above the proximal part of 1st phalanx of middle finger to 1st phalangeal joint of lt. ring finger (dorsally) with fracture of bone underneath.
8. Incised wound $3' \times \frac{1}{4}' \times \frac{1}{4}'$ on rt. shoulder.
9. Bruise $5' \times \frac{1}{4}'$ on left sub scapular region.
10. Lacerated wound $2' \times \frac{1}{8}' \times \frac{1}{3}'$ on left parieto occipital region of scalp 7 ' from eye-brow and 3' from left ear.
11. A diffused swelling on central part of fronto parietal region of scalp.

7. According to the Doctor injuries No. 1,2,3,4,6,7, and 8 were caused by sharp edged weapon and injuries No. 5,9,10 and 11 were caused by blunt object. Injuries were x-rayed. Injuries No. 1,2,3 and 7 were found to be grievous. The Doctor has opined that these injuries could be caused by 'gandasa' Ex. P/1. The tips of two fingers and thumb were totally cut and pieces were recovered.

8. It does not appear that a person would cut his own fingers and thumb with his own hand and inflict so many injuries with sharp edged weapon. So far as the defence witnesses are concerned, they only state about Arjun Singh having left the field after making way for the water to flow in the field. There is no reason to disbelieve the evidence of Kor Singh supported by Baboo Singh. Baboo Singh has stated that when he reached the site on hearing the cry of Kor Singh, the accused ran away from there. He found Kor Singh bleeding from the injuries and took him

to his house and then to the hospital. With such cogent convincing evidence on record, the learned Additional Sessions Judge has rightly held the prosecution case established and there is no reason to interfere with the findings.

9. The appeal has no merits and is dismissed. The Appellant is on bail. The Chief Judicial Magistrate, Sri Ganganagar is directed to issue warrant of arrest against the appellant to procure his attendance and sent him to Jail to suffer the sentences awarded by the trial Court.

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