

Ram Narayan and ors. Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Jul-31-2007

Reported in : RLW2008(1)Raj239

Judge : Shiv Kumar Sharma and; Guman Singh, JJ.

Appellant : Ram Narayan and ors.

Respondent : State of Rajasthan

Judgement :

Shiv Kumar Sharma, J.

1. The appellants, nine in number, along with other co-accused, were put to trial before learned Additional Sessions Judge (Fast Track) No. 4 Jhalawar, who vide judgment dated November 15, 2003, while acquitting co-accused, convicted and sentenced the appellants as under:

Appellants Ram Narayan, Shiv Lal, Bal Chand, Champa Lal, Jagannath, Sujan, Badri Lal, Kanhi Ram and Onkar Lal:

Under Section 302/149 IPC:

Each to suffer life imprisonment and fine of Rs. 1000/-, in default to further suffer one year rigorous imprisonment.

Under Section 148 IPC:

Each to suffer rigorous imprisonment for two years and fine of Rs. 300/-, in default to further suffer rigorous imprisonment for three months.

Under Section 147 IPC:

Each to suffer rigorous imprisonment for one year and fine of Rs. 200/-, in default to further suffer rigorous imprisonment for three months.

The substantive sentences were ordered to run concurrently.

2. In the Parcha Bayan (Ex. P-1) recorded on April 28, 2001 at 9.30 PM injured Poori Bai (PW. 1) stated that on the said day around 6 PM while her husband Narayan had gone to buy tea-leaves, Ram Narayan Sarpanch along with his relatives came armed with weapons and inflicted injuries on the person of Narayan. Ram Narayan, Shiv Lal, Badri Lal, Bal Chand and Sujan were attributed Pharsa and sword blows on the head and legs of Narain. Champa Lal, Bhawani Singh, Onkar, Jagannath and Mangi Lal were alleged to have inflicted lathi blows. Informant Poori Bai was also beaten up by the assailants. On that Parcha Bayan a case under Sections 147, 148, 341, 323 and 302/149 IPC was registered and investigation commenced. Site was inspected, necessary memos were drawn, statements of witnesses were recorded, accused were arrested and on completion of investigation charge sheet was filed. In due course the case came up for trial before the learned Additional Sessions Judge (Fast Track) No. 4, Jhalawar. Charges under Sections 147,148,341,323/149 and 302/149 IPC were framed against the accused, who denied the charges and claimed trial. The prosecution in support of its case examined as may as 24 witnesses. In the explanation under Section 313 Cr PC, the accused claimed innocence. Two witnesses in defence were examined. Learned trial Judge on hearing final submissions while acquitting co-accused persons convicted and sentenced the appellants as indicated above.

3. We have heard learned Counsel for the appellants, learned Counsel for the complainant and learned Public Prosecutor and with their assistance scanned the material on record.

4. Death of Narayan was homicidal in nature. Dr. Radhey Shyam Mehar (PW. 11), who drew Post Mortem Report (Ex. P-17) after performing autopsy on the dead body, deposed that the deceased had following ante mortem injuries on the body:

1. 20 x 1/2 x 6cm deep along the parietal surface bone on head.

2. Left leg below knee bone fractured.

3. Right leg below knee bone fractured.

4. Left leg above knee bone fractured.

In the opinion of autopsy Surgeon the cause of death was hemorrhagic shock by excessive multiple deep injuries on vital parts of the body (brain).

4.1. A look at the injury reports of Poori Bai (Ex. P-15) and Mangi Bai (Ex. P-16) reveals that they sustained few contusions on non vital parts of the body.

5. Coming to the evidence adduced at the trial we notice that Poori Bai (PW. 1) in her deposition stated that Ram Narayan inflicted Pharsi-blow on the head of Narayan as a result of which he fell down, thereafter Shiv Lal and Bal Chand inflicted Pharsi-blows on the legs of Narayan. Whereas Badri Lal and Sujana gave blows with sword and Pharsi. Poori Bai further stated that Lacchu and Onkar also caused injuries on the legs of Narayan with Ballam and Pharsi and Amar Lal was exhorting the assailants to kill Narayan. Testimony of Poori Bai gets corroboration from the evidence of Geeta Bai (PW. 7). In the cross examination of these witnesses, we however notice improvements, exaggerations and embellishments.

6. On analysing the testimony of Poori Bai and Geeta Bai from the point of trustworthiness we find that it is consistent so far as the allegations against appellants Ram Narayan, Shiv Lal, Badri Lal, Bal Chand and Sujana are concerned. Participation of appellants Champa Lal, Jagan Nath, Kanhi Ram and Onkar Lal however could not be established beyond reasonable doubt. In the FIR it was stated by Poori Bai that they inflicted lathi blows on the person of Narayan whereas at the trial injuries with Ballam and Pharsi were attributed to Lacchu and Onkar. Having separated chaff from the grain in the prosecution evidence, we do not find

it reliable and creditworthy against appellants Champa Lal, Jagan Nath, Kanhi Ram and Onkar Lal. Possibility of their over implication in the case, cannot be ruled out.

7. For these reasons, we dispose of instant appeal in the following terms:

(i) We find no merit in the appeal of appellants Ram Narayan, Shiv Lal, Bal Chand, Sujan and Badri Lal and it accordingly stands dismissed. We maintain the conviction and sentence awarded to these appellants under Sections 302/149, 147 and 148 IPC.

(ii) We allow the appeal of appellants Champa Lal, Jagannath, Kanhi Ram and Onkar Lal and acquit them of the charges under Sections 147, 148 and 302/149 IPC. These appellants are on bail, they need not surrender and their bail bonds stand discharged.

(iii) The impugned judgment of learned trial court stands modified as indicated above.

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