

**Kan Singh Vs. Bhan Singh**

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**Court :** Rajasthan

**Decided On :** Sep-09-1985

**Reported in :** 1985WLN(UC)277

**Judge :** Sobhag Mal Jain, J.

**Appeal No. :** S.B. Criminal Revision Petition No. 242 of 1974

**Appellant :** Kan Singh

**Respondent :** Bhan Singh

**Disposition :** Petition dismissed

**Judgement :**

**Sobhag Mal Jain, J.**

1. This revision petition filed by the complainant under Section 397 Cr. PC is directed against the judgment of the Additional Sessions Judge, Jalore, dated the 12th March, 1974, convicting the respondent Under Section 325, 323 and 147 IPC and sentencing him the imprisonment till to the rising of the court and a fine of Rs. 50/- in default of payment of fine to simple imprisonment for 15 days. The complainant submitted that the sentence awarded to the respondent is grossly inadequate.

2. The case relates to the incident which took place on the intervening night of the 23rd and 24th August, 1970, at village Dakatara. The prosecution story, in brief, was that the accused respondent on the night of incident came to the house of the complainant and caused injuries to Ram Singh son of Kan Singh. A first information report of the occurrence was lodged by Kan Singh at Police Station, Jalore on the 24th August, 1970 on which a case under Section 307, 323, 447 IPC was registered. The injuries of Ramsingh were examined by Dr. Mangal Prakash, Medical Jurist, Jalore, who found a lacerated wound on the head, a bruise on the abdominal parieties and one abrasion on the outer aspect of the hand. On X ray the injury on the head was found to as a fracture of the frontal bone. After investigation the police submitted a charge-sheet against the accused respondent in the Court of Magistrate, I Glass, Jalore, who tried him for the offence under Sections 325, 323 and 447 IPC.

3. After trial, the Munsif and Judicial Magistrate, I Class. Jalore, by his judgment dated the 31st May, 1973, convicted the respondent under Sections 325, 323 and 447 IPC, but instead of immediately sending him to imprisonment the learned Magistrate directed the respondent to be released on probation of good conduct for a period of one year. Aggrieved by the order of the Munsif Magistrate the State filed an appeal before the Additional Sessions Judge, Jalore, who by his judgment dated the 12th March, 1974, set aside the order of probation and awarded to the accused the sentence of imprisonment till rising of the court and a fine of Rs. 50/- and in default of payment of fine to 15 days' simple imprisonment. The complainant has now come up in revision before this Court.

4. The revision petition was admitted on July 18, 1974, and notice to the respondent was directed to be issued. The notice was served on the respondent on August 16, 1974 Thereafter Shri Achal Singh, Advocate filed a vakalatnama on his behalf. The case was listed before me for hearing on August 13, 1985. Shri Achal Singh or any other Advocate was not present and, therefore, an amicus curiae was directed to be appointed to represent his case. Shri Harish Mathur Advocate now appears as amicus curiae for the accused-respondent. I have heard Mr. Bhandari for the complainant-petitioner and Mr. Harish Mathur, amicus curiae, for the accused respondent.

5. The revision petition is directed only on the question of sentence and the counsel for the complainant urges that the sentence awarded is grossly inadequate. I see substance in this contention but the matter is 15 years' old. The judgment of the learned Additional Sessions Judge itself was passed more than 11 years back and now at this distant time to re-open the wound already healed seems to me to be not desirable. No useful purpose would be served by sending the accused to jail now after 15 years of the occurrence. It would neither be reformatory nor retributive. Therefore, I am not inclined to interfere in the revision.

6. The result is, the revision petition is dismissed.

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