

Dhan Raj Vs. the State of Rajasthan

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Court : Rajasthan

Decided On : Apr-06-1998

Reported in : 1999(3)WLC299; 1998(1)WLN620

Judge : B.J. Shethna, J.

Appeal No. : S.B. Criminal Appeal No. 344 of 1983

Appellant : Dhan Raj

Respondent : The State of Rajasthan

Disposition : Appeal allowed

Judgement :

B.J. Shethna, J.

1. The appellant accused is a teacher, who has been tried for the offence which alleged to have taken place on 4.7.1979 at about 9 p.m. The incident in question is alleged to have taken place from a trivial quarrel between Ibrahim and the appellant regarding removal of rubbish lying in front of the house and Durga Singh intervened, who received some injuries. The prosecution examined as many as 17 witnesses. The learned trial Judge found that the prosecution proved its case against the accused beyond the reasonable doubt. Learned Judge dis-believed the defence of the accused that it was the complaintant side who assaulted him at

his house and accused received injuries and some of them were of serious nature. Cross cases were also filed in the matter on the complaint filed by the present appellant accused against the other side. However, the defence of the accused was not believed.

2. Learned Counsel Shri Mohanani vehemently submitted that the accused received as many as 6 injuries and some of them were serious injuries like lacerated wound etc. The prosecution failed to explain the injuries received by the accused. Under the circumstances, the order of conviction and sentence recorded by the trial court is required to be set aside. There is lot of substance in the submission made by the learned Counsel for the appellant. When the prosecution fails to explain the injuries received by the accused during the incident then obviously the benefit of doubt should go to the accused. General explanation is no explanation at all.

3. In view of the above discussion, this appeal is allowed. The order of conviction and sentence recorded by the learned trial court on 17.9.1983 in sessions case no. 10/81 convicting the appellant accused for the offence punishable Under Sections 324, 325 IPC and sentenced him to suffer two years R.I. and to pay fine of 500/-, in default to further undergo two months R.I. for the first count and three months R.I. for the second count is set aside. The accused is ordered to be acquitted forthwith. He is on bail, his bail bonds stands cancelled.

4. Before parting I must state that Mr. Mohanani has pointed out that the appellant accused, who is a teacher and a Govt. servant was under suspension for all these years because of the conviction order recorded by the trial court. The offence Under Sections 324 and 323 IPC cannot be said to be of moral turpitude for which the accused can be kept under suspension. Once this Court found a prima facie case in favour of the accused and released him on bail then to keep him under suspension for the reason that he was convicted by the trial court would be illegal, unjust and improper. On acquittal, the accused has to be reinstated immediately and he has to be paid full back wages. If he was continued in service then the Govt. could have saved that money which has to be paid now. The Govt. could have taken work and paid him salary if he was not kept under suspension. Those

Govt. servants who are convicted for corruption, mis-appropriation etc. can be kept under suspension and even dismissed from service, but not those Govt. servants who are convicted for such offences where the incident has occurred on a sudden cause of some trivial quarrel which is not of a moral turpitude. When the incident has no connection with the discharge of duty of the Govt. servant, then such accused person should not have continued under suspension merely because the accused was found guilty by the criminal court.

5. With these observations, this appeal stands allowed.

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