

Shankaria Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Jul-10-1986

Reported in : 1986WLN(UC)452

Judge : Sobhag Mal Jain, J.

Appeal No. : S.B. Criminal Jail Appeal No. 433 of 1981

Appellant : Shankaria

Respondent : State of Rajasthan

Disposition : Appeal dismissed

Judgement :

Sobhag Mal Jain, J.

1. This appeal is directed against the judgment dated 25th May, 1981, of the Sessions Judge, Balotra, convicting and sentencing the accused for the offence under Section 326 IPC to one year's rigorous imprisonment and a fine of Rs. 100/-, in default of payment of fine to two months simple imprisonment and under Section 456 IPC, six months' rigorous imprisonment and a fine of Rs. 100/-, in default of payment of fine to one month's simple imprisonment. Both the sentences have been ordered to run concurrently. The accused has already served out the sentence. He was arrested on December 24, 1980 and remained in custody during

the trial and even after conviction.

2. The case relates to the incident, which took place on the night intervening 22nd and 23rd December, 1980 at the house of Smt. Chunni.

3. The prosecution story, in brief, was that Smt. Chunni was sleeping in a Jhumpa when the accused came there with an axe in his hand. The shutters were closed from inside but the accused broke open the shutters and entered the Jhumpa. Smt. Chunni ran outside the Jhumpa but the accused chased her and caused a number of injuries on her body by the axe. The injuries of Smt. Chunni were examined by Dr. Gopikishan Vyas, the next day. He found five injuries on her body. All the injuries were caused by a sharp edged weapon. One injury was grievous, while the rest were simple. The doctor opined that the injuries could have been caused by an axe. The First Information Report of the occurrence was lodged at Police Station, Barmer on December 23, 1980, at about 10.00 a.m., on which a case under Sections 458 and 307 was registered against the accused and investigation started.

4. After investigation, the Police filed a charge-sheet against the accused in the Court of Judicial Magistrate, Barmer, who committed him for trial to the Court of Sessions Judge, Balotra for the offence under Sections 307, 459, 326 and 324 IPC. The Sessions Judge tried the accused for the offences under Sections 307, 458, and 326 IPC. The accused pleaded not guilty and claimed to be tried. The prosecution examined as many as 9 witnesses. The accused in his statement under Section 313 Cr. PC denied the prosecution allegations and stated that he has been falsely implicated.

5. By the judgment dated 25th May, 1981, the Sessions Judge, Balotra, has convicted and sentenced the appellant for the offences under Sections 326 and 456 IPC as aforesaid. The learned Sessions Judge, however, acquitted him for the offences under Sections 307 and 458 IPC. The learned Sessions Judge has come to the conclusion that the prosecution has proved that the accused entered the Jhumpa of Smt. Chunni and at that time, he was armed with an axe. Smt. Chunni received a number of injuries by a sharp edged weapon. One of such injuries was grievous in nature. The injuries of Smt. Chunni were caused by the accused.

According to the learned Sessions Judge, the offence under Sections 326 and 456 IPC was duly made out against the accused. Aggrieved by the aforesaid order of conviction and sentence passed by the learned Sessions Judge, the accused-appellant has filed the present appeal in this Court. The appeal was received through jail. As the accused was unrepresented, Shri S.D. Vyas, Advocate, was appointed as Amicus Curiae.

6. I have heard the learned Amicus Curiae and the learned Public Prosecutor and perused the judgment of the learned Sessions Judge under appeal and the relevant evidence of the prosecution witnesses.

7. The prosecution case rests on the evidence of Smt. Chunni. Smt. Chunni has been examined as PW 8. She herself is an injured. After going through her statement, I do not find any infirmity in her testimony to discredit her. She appears to be a truthful witness. From her evidence, it is amply proved that the accused entered into the Jhumpa of Smt. Chunni armed with an axe. When she went outside the Jhumpa and tried to escape, the accused caused a number of injuries by the axe on her body. Her injuries are proved by the evidence of Dr. Gopikishan Vyas. The conclusions arrived at by the learned Sessions Judge are fully borne out by the evidence on record. I do not find any error in the findings of the learned Sessions Judge. The offences under Sections 326 and 456 are clearly made out against the accused appellant.

8. The result is, that the appeal is dismissed. The order of conviction and sentence passed by the learned Sessions Judge against the accused appellant is upheld. The accused has already undergone the sentence awarded to him.