

**Onkar Vs. Jeev Raj and ors.**

**Onkar Vs. Jeev Raj and ors.**

**SooperKanoon Citation :** [sooperkanoon.com/769781](http://sooperkanoon.com/769781)

**Court :** Rajasthan

**Decided On :** Dec-05-1985

**Reported in :** 1985WLN(UC)542

**Judge :** Jas Raj Chopra, J.

**Appeal No. :** S.B. Criminal Appeal No. 112 of 1978

**Appellant :** Onkar

**Respondent :** Jeev Raj and ors.

**Disposition :** Appeal dismissed

**Judgement :**

**Jas Raj Chopra, J.**

1. This appeal arises out of a judgment of acquittal recorded by the learned Munsif and Judicial Magistrate, Chhoti Sadri, in criminal case No. 297/75 dated 30-8-1977 whereby the learned lower court acquitted the respondent accused persons Jeevraj, Kanyalal, Radheysham, Ram Kanya and Mst. Gulab of the offences under Sections 323 and 447 IPC.

2. The facts of the case briefly stated are that on 6-7-1975 at about 2 or 2.30 p.m. when complainant Kumawat of village Naraini was cultivating his field in Khasra No. 355, these accused persons came armed with lathis. They attacked him and

inflicted injuries to him. He got his injuries medically examined and got them X-rayed also but all the 5 injuries which were received by him were found to be simple. He has stated that he lodged a report in the police on that very day and latter he filed a complaint of this incident in the learned trial court on 11-7-1975. The learned court has dismissed his complaint on the ground that the complaint is delayed because he was examined on 6th of July and his injuries were X-rayed on 7th of July and, therefore, no reasonable explanation is forthcoming for delay of 4 days in preferring this complaint before the trial court. It has further been observed by the learned lower court that the first version of the occurrence which was contained in the police report has not been brought on record and it is difficult to know what has been alleged there in against all or any of these accused persons. This has deprived the accused persons of a very valuable right to cross examine the prosecution witnesses on the basis of that FIR I am inclined to agree with the reasoning given by the learned lower court. These two factors are sufficient to create a doubt in the mind of the court about the truthfulness of the prosecution story.

3. I, therefore, find no force in this appeal and it is hereby dismissed.