

State Vs. Dilip Singh and anr.

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SooperKanoon Citation : sooperkanoon.com/772769

Court : Rajasthan

Decided On : Aug-26-2008

Reported in : RLW2009(3)Raj2396

Judge : Mahesh Chandra Sharma, J.

Appellant : State

Respondent : Dilip Singh and anr.

Disposition : Appeal dismissed

Judgement :

Mahesh Chandra Sharma, J.

1. The State of Rajasthan has preferred this appeal against the judgment dated 30.9.2004 passed by learned Additional District & Sessions Judge (Fast Track), Baran (hereinafter to be referred as 'the learned trial Court') in Sessions Case No. 54/2004, by which he acquitted the accused respondents for the offence under Section 307/34 IPC but convicted the accused-respondent No. 1 Dilip Singh for the offence under Section 324 IPC and released him on probation by giving benefit of Probation of Offender Act and also imposed a fine of Rs. 500/- to be deposited in the learned trial Court under Section 5 of the Probation of Offenders Act.

2. In brief, the facts of the case are as under:

On 6.1.2004, complainant Sitaram (PW. 2) given a Parcha Bayan (Ex. P/2) before the Police in M.B.S. Hospital, Kota in which he has stated that when he was standing outside the house, at that time accused-respondents came. Accused-respondent Dilip having Chura in his hand and Mahendra is having lathi in his hand the accused-respondents stated that kill me and Dilip ran alongwith Chura and started attacking on my heart and when he turned behind to escape then the Chura hit him on his right shoulder and blood is came then accused-respondent Mahendra hit him lathi on his shoulder. At the time of incident Mohanlal (PW. 1) and Lakshmi Chand (PW. 4) and others Villages of the Village were also present. The accused-respondents with an intention to kill him gave beating by Chura & Lathi.

3. Upon the said report Police registered the case as FIR No. 9/04 for the offences under Section 307, 341 and 34 IPC and started investigation.

4. After investigation the police filed a challan against the accused-respondents for the offences under Section 307, 341 and 34 IPC before the learned Judicial Magistrate, Anta where the case was committed to the learned District & Sessions Judge, Baran and ultimately the case was transferred to the learned trial Court.

5. The learned trial Court framed the charges for the offence under Section 307/34 IPC.

6. The same was read over and explained to the accused-respondents ' who denied for the same and claimed trial.

7. During trial the prosecution in support of its case examined as many as 14 witnesses and got exhibited some documents.

8. Thereafter the statement of the accused-respondents under Section 313 Cr.P.C. were recorded.

9. After conclusion of the trial the learned trial Court vide its judgment dated 30.9.2004 passed the order as mentioned hereinabove.

10. Aggrieved against the judgment and order of the learned trial Court dated 30.9.2004, the State of Rajasthan has preferred the instant appeal.

11. In this appeal it has been submitted by the learned Public Prosecutor that the judgment and order dated 30.9.2004 passed by the learned trial Court is contrary to law and against the facts on record as such the same is liable to be quashed and set aside.

12. The learned P.P. further submitted that from the bare perusal of Ex. P/2 the Parcha Bayan which was given by the complainant Sita Ram before the Police in the M.B.S. Hospital, Kota, the charges levelled against the accused-respondents are well proved hence, the judgment is liable to be quashed and set aside to the extent of giving of benefit of probation of offenders Act and the accused respondents are liable to be convicted for the charges levelled against them vide Ex. P/2.

13. On the other hand, the learned Counsel for the accused-respondents has submitted that the impugned judgment and order passed by the learned trial Court is based on the correct appreciation of evidence and after giving cogent reasons, the learned trial Court has acquitted the accused respondents for the offence under Section 307/34 IPC and convicted the accused-respondent No. 1 Dilip Singh under Section 324 IPC but released him on probation by giving him benefit of Section 4 of Probation of Offenders Act and imposed a fine of Rs. 500/- under Section 5 of the Probation of Offenders Act to be deposited in the learned trial Court.

14. The learned Counsel further draw the attention of this Court that the time period of the probation has been completed and no other complaint against the accused-respondent has been received.

15. For these reasons I do want to interfere with the judgment of the learned Additional District & Sessions Judge (Fast Track), Baran (Rajasthan) dated September 30, 2004 and the same is hereby confirmed after dismissing the appeal filed by the State of Rajasthan.

