

State Vs. Nathilal and ors.

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Court : Rajasthan

Decided On : Aug-19-2008

Reported in : RLW2009(3)Raj2406

Judge : Mahesh Chandra Sharma, J.

Appellant : State

Respondent : Nathilal and ors.

Judgement :

Mahesh Chandra Sharma, J.

1. The State of Rajasthan has preferred this appeal against the judgment dated 17.10.2002 passed by learned Additional District & Sessions Judge (Fast Track) No. 2 Bharatpur (Rajasthan) (hereinafter to be referred as 'the learned trial Court') in Sessions Case No. 74/2001 by which he acquitted the accused-respondents for the offences under Section 307, 307/149, 326, 326/149 IPC but convicted the accused-respondent No. 1 for the offences under Section 148, 325, 324/149 and 323/149 IPC and rest of the accused-respondents for the offences under Sections 148, 325, 325/149, 324/149 and 323/149 IPC but released all the accused-respondents by giving benefit of Section 4 of Probation of Offender Act 1958.

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

Complainant Mathura S/o Rajaram (PW.I) lodged a written report (Ex. P./1) in police Station Kumher with this effect that today at 6-6.30 P.M. he and his brother namely jagdish, Thakuralal, Mahesh and Ramwati W/o Jagdish were taking inside his house at that time accused-respondents Nathi S/o Pyare, Shivram, Parsaram S/o Nathi, Hardev S/o Nathi, Shymo W/o Nathi, Shakuntla W/o Shivraj, Lila W/o Parsaram, Indra W/o Hardev, Omwati D/o Nathi with a common intention armed with Lathi, Farsa in their hand were entered in their house with a intention to kill them and on entering they gave beating to his brother Jagdish, Thakuralal, Mahesh and their 'Bhabhi' Ramwati by lathi, farsa. Due to this, they sustained grievous injuries on head, mouth, hand and legs. On hue and cry the Prakash and Radheyshyam and other villagers came and they escaped they saw the incident.

3. On the basis of the above mentioned report the police registered FIR No. 100/94 for the offences under Sections 147, 148,149, 452, 323, 324 IPC and started investigation.

4. After investigation the police filed a challan before the Court of Additional Judicial Magistrate, 1st Class, No. 1, Bharatpur. Thereafter, the case was committed to the Court of Sessions Judge, Bharatpur. The learned Sessions Judge transferred the case to the learned Special Judge Decoti affected Area, Bharatpur where the case was committed the learned trial Court.

5. The learned trial Court framed the charges against the accused-respondents for the offences mentioned hereinabove.

6. The charges were 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 16 witnesses and got exhibited some documents.

8. Thereafter the statements of the accused-respondents under Section 313 Cr.P.C. were recorded. In defence the accused-respondents produced one defence witness namely DW-1 Manojkumar.

9. After conclusion of the trial the learned trial Court vide its judgment dated 17.10.2002 acquitted the accused-respondents as indicated above but convicted accused-respondent No. 1 Nathilal for the offences under Section 148, 325, 324/149 and 323/149 IPC and rest of the accused-respondents for the offences under Sections 148, 325, 325/149, 324/149 and 323/149 IPC but released all the accused-respondents by giving benefit of Section 4 of Probation of Offenders Act 1958 for keeping good behaviour for two years.

10. Aggrieved against the judgment and order of the learned trial Court dated 17.10.2002, the State of Rajasthan has preferred the instant appeal.

11. In this appeal it has been submitted by the learned Public Prosecutor that the learned trial Court has not considered the statements of the prosecution witnesses properly. He has further contended that the learned trial Court has wrongly observed that prosecution has failed to prove the offence against the accused-respondents and thus, the impugned judgment and order dated 17.10.2002 is erroneous one and should be set aside.

12. He has also pointed out that the trial Court has given the benefit of probation under Section 4 of the Probation of Offenders Act 1958 but has not given the compensation to the injured as per Section 5 of the Probation of Offenders Act 1958 and the accused-respondents should be given reasonable amount of compensation to the injured.

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 convicted the accused-respondents for the offences mentioned hereinabove but released them on probation by giving benefit of Section 4 of Probation of Offenders Act, 1958.

14. The learned Counsel submitted that all the accused-respondents have completed their probation period and no complaint whatsoever has been received against any of the accused-respondents and after the expiry of period of probation the accused-respondents should not be put behind the bar. Lastly, he has urged

that the judgment of the trial Court be maintained.

15. I have heard learned Public Prosecutor as well as the learned Counsel for the accused-respondents and also gone through the record of the case.

16. For these reason, I do not want to interfere with the judgment of the learned trial Court. But, I imposed a compensation of Rs. 8000/- to be paid by the accused-respondents as per Section 5 of the Probation of Offenders Act, 1958 equally to the injured namely Jagdish (PW. 1), Mahesh (PW. 3), Ramawati (P.W. 4) and Thakur Lal (PW. 8) i.e. Rs. 2000/- each. The amount of compensation will be deposited in the learned Additional District & Sessions Judge, (Fast Track) No. 2, Bharatpur within a period of two month from the date of receipt of the certified copy of the judgment.

17. The order of the learned trial Court is modified to the extent as indicated above. This appeal is partly allowed.

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