

Deva Vs. State of Rajasthan

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SooperKanoon Citation : sooperkanoon.com/773003

Court : Rajasthan

Decided On : Mar-16-2001

Reported in : 2000WLC(Raj)UC107; 2002(2)WLN63

Judge : V.G. Palshikar, J.

Appellant : Deva

Respondent : State of Rajasthan

Judgement :

V.G. Palshikar, J.

1. This appeal is filed by the accused-appellant challenging the judgment dated 4.11.1985 passed by Additional Sessions Judge, Rajsamand in Sessions Case No. 41/85 convicting the appellant under Section 307 I.P.C. by sentencing him to undergo one year's R.I. and a fine of Rs. 500/- and in default of payment of fine to further undergo 3 months' S.I. on the grounds mentioned in the memo of appeal and as also canvassed before me.

2. With the assistance of the learned Counsel for the accused-appellants and learned Public Prosecutor I have scretinised the evidence on record and reappreciated the evidence on record.

3. The prosecution story as it emerges from reappreciation of the evidence on record is that; on 26.6.1984 at 9:45 a.m. an FIR was lodged by Shel Singh at Police Station, Rajsamand with the allegation that at the vary day at about 8 a.m. when he and one Bhali Ram both were going for labouring. When they reached near Dharmeta-ki-Bhagal then Kalu son of Nathu, Deva son of Kalu, Birma son of Kalu and Vardi wife of Kalu Bheel, residents of Pathol who were concealing themselves on the back side of hillock. When he saw them, they tried to run away. Deva was armed with gun and others were armed with Kulharis and Lathis. Deva fired a gun shot on the his head and back side and blood came out. After this, Sukhlal and Himmat Singh came there and accused persons ran away. On this information, a case was registered under Section 307/34 I.P.C. and challan was filed against Deva and Smt. Vardi under Section 307/34 I.P.C. and after trial accused Vardi was acquitted and accused Deva was convicted under Section 307 I.P.C. and sentenced to one year's R.I. and Rs. 500/- as fine and in default of payment of fine to further undergo three months' S.I.

4. On reappreciation of the evidence, I find that the offence under Section 307 I.P.C. is made out. The accused person is on bail for last about 15 years. To put him back in jail after appellatant led peaceful life of ordinary citizen, would be rather unjust.

5. Hence, the appeal is partly allowed. The conviction under Section 307 I.P.C. is maintained but the sentence is reduced to that already undergone. The impugned order is thus modified to the extent above.