

Ajay Kumar and ors. Vs. State

Ajay Kumar and ors. Vs. State

SooperKanoon Citation : sooperkanoon.com/773116

Court : Rajasthan

Decided On : Jul-22-2002

Reported in : 2002WLC(Raj)UC782; 2002(5)WLN329

Judge : A.C. Goyal, J.

Appeal No. : S.B. Criminal Revision Petition No. 54 of 2002

Appellant : Ajay Kumar and ors.

Respondent : State

Judgement :

A.C. Goyal, J.

1. This S.B. Criminal Revision Petition is filed against the impugned order dated 12.12.2001 whereby, the learned Additional Sessions Judge No. 1 (Fast Trek) Jaipur City, Jaipur ordered to frame charges under Section 307, 325 and 323, IPC against the three accused petitioners.

2. The relevant facts in brief are that one FIR was lodged at concerned police station with the averments that at about 8.30 P.M. on 27.6.2000, a quarrel took place between Kishan Chand, gateman of the cinema Hall and three accused persons. Accused Surendra and Suresh started giving fist blows while accused Ajay Kumar gave Danda blow upon the head saying that, he would be killed.

3. After investigation, challan under said sections was filed and the learned trial Judge ordered to frame charges as stated above.

4. The learned Counsel for the petitioners contended that scuffle took place for drinking water and there is no such injury so as to reflect any intention of the accused-petitioners and, therefore, offence under Section 307, IPC is not made out. The learned Public Prosecutor and the learned Counsel for the complainant supported the impugned order. Having considered the material on record and the submissions, offence under Section 307, IPC is not even prima-facie made out keeping in view the provisions of Sections 227 & 228, Cr PC and Section 307, IPC. This quarrel took place out of the cinema hall when accused petitioners were drinking water. According to the statement of injured Kishan Chand himself he was beaten by fist and Lathi. According to the injury report, Kishan Chand got two stitch wounds over left eye brow and at nasal bridge and two other injuries i.e. the abrasion and swelling. All the injuries were caused by blunt weapon. According to X-ray, one fracture was found in Vth Metacarpal Bone. Keeping in view these injuries and the ground of quarrel, it is not made out at all that the accused persons inflicted these injuries with such an intention or knowledge and under such circumstances, that if by that act, the death is caused, they would be guilty of murder. Such intention or knowledge may be inferred only from the nature of injuries, on what parts of the body, the injuries were caused, the nature of weapon and the background of such incident.

5. In the facts and circumstances of the case, even prima-facie case under Section 307, IPC is not made out. Therefore, all the three accused persons are hereby discharged for an offence under Section 307 IPC and the case would be tried for remaining offences by the competent Court. The record of the trial Court with the copy of this order shall be sent back within a period of 7 days from today.