

Pran Nath Vs. State

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Court : Delhi

Decided On : Mar-25-2010

Judge : V.K. Jain, J.

Acts : Indian Penal Code (IPC) - Section 326; ;Code of Criminal Procedure (CrPC)
- Sections 313, 357(3) and 421

Appeal No. : CrI. A. No. 165/2005

Appellant : Pran Nath

Respondent : State

Advocate for Def. : Jaideep Malik, APP

Advocate for Pet/Ap. : V. Madhukar, Adv.

Judgement :

V.K. Jain, J.

1. This is an appeal against the Judgment dated 3rd February, 2006 and Order on Sentence dated 07th February November 2006, whereby the appellant was convicted under Section 326 of IPC and was sentenced to undergo R.I. for five years. He was further directed to pay Rs. 15,000/- as compensation to the injured under Section 357(3) of the Code of Criminal Procedure. The compensation was directed to be recovered as arrears of land revenue under Section 421 of the Code

of Criminal Procedure.

2. On 17th February, 2004, the injured Rakesh was admitted in Hindu Rao Hospital with burn injuries on his face, hands and thighs. On 19th February, 2004, his statement was recorded by the Investigating Officer. In his statement to the IO, the complainant/injured Rakesh alleged that the appellant Pran Nath was having animosity with him as some of his customers had started taking milk from him (the complainant). He further stated that on 17th February, 2004, at about 4.45 am when he was going to his dairy in Shakti Nagar, the appellant, who was carrying a plastic jug with him, came close to him and threw the liquid which he was carrying in the jug, on him. As a result, he sustained burn injuries on his face and other parts of his body. He reached up to his dairy in burnt condition and was taken to Hindu Rao Hospital.

3. During trial, the prosecution examined 10 witnesses in support of its case. The complainant came in the witness box as PW-1 and supported the case set up in the FIR. He stated that on 17th February, 2004 at about 4.45 am, he was going to Shakti Nagar on his bicycle. When he reached near Silai Kendra, Kishan Ganj, he noticed the appellant Pran Nath standing near the wall holding a jug in his hand. The appellant came close to him and poured the acid on his face. The acid fell on his entire face, hands and thighs. The complainant however managed to reach his dairy in the same condition and was taken to hospital. PW-8 Dr. Sameek Bhattacharya examined the injured in the hospital vide MLC Ex. PW-8/A and found burn injuries on his person. PW-9 Anurag Saini proved the MLC prepared by Dr. Praveen Gupta.

4. In his statement under Section 313 of Cr.P.C., the appellant admitted that he knew the complainant. He, however, denied having thrown acid on him.

5. The learned Counsel for the appellant states that considering the fact that there has been practically no cross-examination of the complainant and other facts and circumstances of the case, he does not dispute his conviction and only seeks leniency in the matter of the sentence awarded to him. He has drawn my attention to the report of the Probationary Officer dated 06th February, 2006 where he recommended benefit of probation be given to the appellant.

6. Even otherwise, the deposition of the injured, to whom the appellant, admittedly was previously known, corroborated by the injuries which he sustained, proves the case of the prosecution beyond reasonable doubt. The burn injuries cannot be disputed, in view of the MLC of the injured. This is not the case of the appellant that some other person had thrown acid on the complainant. The appellant had a motive to throw acid on the complainant, as he was annoyed with him, on account of some of the customers having started taking milk from the complainant. The conviction of the appellant is therefore maintained.

7. A perusal of the record shows that the appellant was arrested on 31st May, 2004 and pursuant to the bail granted to him, his bail bond was accepted on 12th October, 2004. He thus spent four months and 12 days in custody before he was granted bail by the Trial Court. The appellant was sentenced by the Trial Court on 07th February, 2006. He was not granted bail during the pendency of the appeal. Therefore, he has spent more than 4 years, 1 month and 18 days in custody after sentence was awarded to him. The appellant has, therefore, already spent 4 1/2 years in custody without taking into consideration the remission earned by him.

8. Taking into consideration all the facts and circumstances of the case, including the report of the Probationary Officer and the period already spent by the appellant in custody, the period of substantive sentence awarded to the appellant is reduced to the period already undergone by him.

CrI. A. 165/2005 stands disposed of.

One copy of this Judgment be sent to the appellant through Jail Superintendent.

The Record of the Trial Court be sent back with a copy of the judgment.

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