

Karamjeet @ Titu Vs. State

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Court : Delhi

Decided On : Apr-20-2010

Judge : Pradeep Nandrajog and; Suresh Kait, JJ.

Appeal No. : Crl. Appeal No. 596/2008

Appellant : Karamjeet @ Titu

Respondent : State

Advocate for Def. : Richa Kapoor, Adv.

Advocate for Pet/Ap. : Shraddha Bhargava, Adv.

Judgement :

Pradeep Nandrajog, J.

1. We note that the appellant has filed the appeal availing services of a legal aid counsel. The appeal has reached for hearing today. Counsel provided by the Delhi High Court Legal Services Committee to the appellant has not appeared and accordingly we appoint Ms. Sharddha Bhargava Advocate who is present in Court and is on the panel of the Delhi High Court Legal Services Committee as the Amicus Curiae to argue the appeal on behalf of the appellant.

2. We fix the fee of learned Counsel in sum of Rs. 5,500/-, to be paid by the Delhi High Court Legal Services Committee.

3. The post-mortem report Ex.PW-1/A of the deceased Anna Madrasi, proved through the testimony of its author Dr. Amit Kochhar PW-1, shows that the deceased had 5 external injuries, being as under:

1. Incised wound, 3 cm x 0.5 cm x 0.3 cm bone deep, over left parietal region, 6 cms in front of left pinna.

2. Incised wound, 1 cm x 0.3 cm x 0.2 cm cartilage deep, present on left pinna.

3. Incised wound, Y-shaped, longer length 3 cm and shorter arm 2 cms in length, 0.5 cm wide and 0.3 cms bone deep, over left cheek, 5 cms in front of left ear.

4. Lacerated wound, 3 cm x 1 cm x 0.5 cm bone deep, over left occiput.

5. Incised wound 2 cm x 0.3 cm x 0.1 cm skin deep, present over left chest, 4 cms below left nipple.

4. Internal examination revealed: 'thin film of subdural haemorrhage present over the left parieto-occipital region. Diffuse subarachnoid haemorrhage seen all over the brain matter.'

5. It was opined that injury No. 1, 2, 3 and 5 could be caused by a sharp cutting weapon and injury No. 4 could be caused by a blunt object. Said injury was opined to be sufficient to cause death in the ordinary course of nature.

6. How did Anna Madrasi suffer the injuries? Two eye witnesses Saleem PW-2 and Gopal PW-3 have proved the same.

7. Whereas Saleem has not brought out the exact contours of what happened, Gopal Singh has done so. Saleem has said that the accused and the deceased fought over a cup of tea. Gopal Singh has thrown more light. As per Gopal Singh, deceased Anna Madrasi came to the tea stall where accused served him tea, taste whereof was not to the liking of Anna Madrasi. When Anna Madrasi commented upon the tea, appellant uttered that he could go somewhere else to take better tea if the tea served to him was not up to the mark. Filthy abuses were exchanged between the deceased and the appellant who took out a 'jharna' (a cooking implement used to drain out oil from fried food) and gave blows to the deceased.

There was some manhandling by Anna Madrasi, at which accused picked up a bottle of sauce and struck a blow on the head of Anna Madrasi who started bleeding.

8. It is apparent that the incised wounds on the person of the deceased, which are non fatal, are the result of the deceased being hit with the jharna. It is apparent that the head injury No. 4 is the result of a single blow being struck on the head of the deceased with the bottle of sauce.

9. From the testimony of Gopal Singh it is apparent that the appellant did not act with any pre-meditation. It is apparent that everything happened upon a sudden quarrel.

10. During the course of the sudden quarrel a sauce bottle was picked up and was hit upon the head of the deceased causing subdural haemorrhage, meaning thereby, the dura mater i.e. the outer most membrane of the brain got affected probably due to extravasation of the blood vessels.

11. We accordingly hold that the offence committed by the appellant is not murder but culpable homicide not amounting to murder.

12. On the issue of sentence, we note that as per the nominal roll of the appellant he has undergone an actual sentence of 5 years and 8 months as of 15.4.2001 and has earned remission of about nearly 1 year.

13. Considering the fact that the appellant has no past history of any criminal activity; further taking note of the circumstances under which the appellant inflicted the injury on the person of the deceased, we are of the opinion that ends of justice would be met if the appellant is sentenced to undergo imprisonment for the period already undergone.

14. The appeal stands disposed of modifying the conviction of the appellant, in that, the appellant is held guilty of committing the offence of culpable homicide not amounting to murder, for which offence we sentence the appellant to undergo imprisonment for the period already undergone.

15. Since the appellant is in jail we direct that a copy of this decision be sent to the Superintendent Central Jail Tihar with a direction that the appellant shall be set free forthwith.

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