

Rajesh Kumar. Vs. State of Rajasthan.

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Court : Rajasthan Jaipur

Decided On : Apr-25-2011

Judge : R.S. Chauhan, J.

Acts : Code of Criminal Procedure (CrPC) - Section 216; Indian Penal Code (IPC)
- Sections 307, 342, 323

Appeal No. : S.B. Criminal Revision Petition No.784/2010.

Appellant : Rajesh Kumar.

Respondent : State of Rajasthan.

Advocate for Def. : Mr.Paresh Chaudhary, Adv.

Advocate for Pet/Ap. : Mr.R.D.S. Naruka, Adv.

Judgement :

1. Aggrieved by the order dated 10.06.2010, passed by the Additional District and Sessions Judge (Fast Track), Sikar, whereby the learned Judge has dismissed the petitioner's application under Section 216 Cr.P.C. and has framed the charges against the petitioner for offences under Sections 307, 342 and 323 IPC, the petitioner has approached this Court.

2. Mr. R.D.S. Naruka, the learned counsel for the petitioner, has vehemently contended that according to the injury report, the injured, Ramavatar, had suffered merely simple injuries. Therefore, the injuries are neither dangerous to life, nor

sufficient to cause his death in the ordinary course of nature. Thus, no offence under Section 307 IPC has been made out.

3. However, despite the lack of evidence, a charge under Section 307 IPC has been framed against the petitioner. On the other hand, Mr. Paresh Chaudhary, the learned Public Prosecutor, has contended that according to Illustration (c) of Section 307 IPC, the causing of an injury, or the nature of the injury is irrelevant for an offence under Section 307 IPC. Section 307 IPC, in fact, punishes the intention or the knowledge. Even if the injuries are simple in nature, hurt is caused to the injured.

4. Therefore, the case falls under the latter part of Section 307. Hence, the learned Judge was justified in framing the charge for offence under Section 307 IPC.

5. Heard the learned counsel for the parties and perused the impugned order. Section 307 IPC is as under : Section 307. Attempt to murder

6. Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, and if hurt is caused to any person by such act, the offender shall be liable either to [imprisonment for life], or to such punishment as is hereinbefore mentioned. Attempts by life convicts.- When any person offending under this section is under sentence of [imprisonment for life] he may, if hurt is caused, be punished with death]. Illustration (c) is as under :

(c) A, intending to murder Z, buys a gun and loads it. A has not yet committed the offence. A fires the gun at Z. He has committed the offence defined in this section, and if by such firing he wounds Z, he is liable to the punishment provided by the latter part of [the first paragraph of] this section.

A bare perusal of Illustration (c) clearly reveals that it is immaterial whether an injury was caused or not. Moreover, if an injury was caused, and the injury is sufficient to cause hurt to the injured, according to the Illustration (c), the case

would fall within the ambit of the latter part of Section 307 IPC. In the present case, according to Ramavatar, he was subjected to electric shock by the petitioner. Thus, pain must have been caused to him. Hence, hurt, as defined in Section 319 Cr.P.C., had occurred. Therefore, the case would prima facie fall within the latter part of Section 307 IPC. Hence, the learned Judge was certainly justified in framing the charge for the said offence.

7. Hence, this Court does not find any illegality or perversity in the impugned order. This petition, being devoid of any merit is, hereby, dismissed.

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