

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

RESERVED ON : FEBRUARY 19, 2015

DECIDED ON : APRIL 06, 2015

+ CRL.A. 1608/2014

RANJIT SINGH

..... Appellant

Through : Mr.K.Singhal, Advocate.

versus

STATE

..... Respondent

Through : Mr.Navin K.Jha, APP.

SI Amit Dutt, PS Gandhi Nagar.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J.

1. Appellant-Ranjit Singh impugns a judgment of learned Additional Sessions Judge dated 07.08.2014 in Sessions Case No.32/2014 arising out of FIR No.70/1989 under Section 353/332/307 IPC and 27 Arms Act registered at Police Station Gandhi Nagar by which he was convicted under Section 332 IPC and 27 Arms Act. By an order dated 11.08.2014, he was sentenced to undergo RI for two years with fine ₹1,000/- under Section 332 IPC and RI for three years with fine ₹1,000/- under Section 27 Arms Act.

2. Allegations against the appellant were that on 16.03.1989 at about 11:02 a.m. at Gali No.18, Ajit Nagar, Gandhi Nagar near Railway Line, to avoid apprehension, he inflicted injuries by a knife to Ct.Virender Singh and Ct.Girraj Singh when they along with SI Radha Raman, SI Devi Dayal, ASI Tej Pal etc. were on patrolling duty in the area. The victims were taken to hospital for medical examination. A knife recovered from the appellant was seized and FIR was lodged. Statements of witnesses conversant with the facts were recorded. After completion of investigation, a charge-sheet was filed against the appellant for committing various offences. By an order dated 18.05.1992 charges under Section 307 IPC and 27 Arms Act were framed to which the appellant pleaded not guilty and claimed trial. The prosecution examined PW-1 (Dr.Rajiv Grover) PW-2 (HC Virender Singh), and PW-4 (Radah Raman). Thereafter, the appellant absented and was finally declared Proclaimed Offender. The file was consigned to record room under Section 299 Cr.P.C. by an order dated 19.07.1997. Subsequently, the appellant was arrested on 15.01.2014 and a Kalandra under Section 41.1 (C) Cr.P.C. was filed; the case was reopened. The witnesses already examined were recalled. The prosecution further examined PW-3 (Ct.Shyamvir), ASI Giriraj Singh and (PW-6) HC Sushil Kumar. In 313

statement, the appellant denied his complicity in the crime and pleaded false implication. The trial resulted in his conviction as aforesaid. It is relevant to note that the State did not challenge appellant's acquittal under Section 307 IPC. Being aggrieved and dissatisfied, the appellant has preferred the appeal.

3. Appellant's counsel urged that the trial court did not appreciate the evidence in its correct and true perspective and fell in grave error to rely upon the testimonies of the police officials without independent corroboration. They have given divergent and conflicting statements as to how and under what circumstances, the appellant was arrested. The appellant was severally beaten by the police officials on his refusal to pay illegal gratification and the MLC reflects sustaining of multiple injuries on his body. Learned APP urged that the prosecution has examined victims who sustained injuries and there are no reasons to disbelieve them.

4. The occurrence took place on the night intervening 15/16.03.1989 at around 11:00 a.m. The appellant was apprehended and a knife (Ex.P-1) was recovered from his possession. The appellant has not denied his apprehension at the spot. He did not explain his presence at odd hours at the spot. Injuries sustained by the victims are not under

challenge. Appellant's plea is that these are self-inflicted. No plausible explanation has, however, been offered as to why the victims would inflict injuries on their bodies without reason. The victims were immediately taken to Swami Dayanand hospital and were medically examined by Dr.Rajiv Grover vide MLCs Ex.PW-1/B (Ct.Giriraj Singh), Ex.PW-1/C (Ct.Virender Singh) and Ex.PW-1/D (Ct.Shyambir Singh). It is relevant to note that appellant who sustained injuries due to beatings by public was also taken for medical examination in the said hospital and was examined by the same doctor vide MLC Ex.PW-1/A. Nothing was suggested to him in the cross-examination if injuries on the body of Ct.Shyambir, Ct.Giriraj and Ct.Virender Singh could be self-inflicted. HC Virender Singh as PW-2 implicated the appellant for inflicting injuries to him and his colleagues. He also proved recovery of knife (Ex.P-1) from appellant's possession. Since the appellant had absconded and statement of HC Virender Singh was recorded under Section 299 Cr.P.C. in his absence, he could not be cross-examined. Subsequently, when the appellant was arrested on 15.01.2014 and PW-2 Virender Singh was recalled for cross-examination, he had already expired. His testimony under Section 299 Cr.P.C. is to be read in evidence. PW-3 (ASI Shyambir) gave graphic details in his Court statement and identified the appellant to have inflicted

injuries to him and his colleagues in an attempt to overpower him. Despite lengthy cross-examination, no material discrepancies could be elicited in his cross examination to disbelieve him. No ulterior motive was assigned for falsely implicating the accused. His statement has been corroborated on material facts by PW-4 (Radha Raman); his testimony remained unshattered in the cross-examination. ASI Giriraj Singh is another witness who has deposed on similar lines and did not deviate from his version. The fact that the appellant had sustained injuries on his person affirms his presence at the spot. The prosecution witnesses though police officials, were not acquainted with him to falsely implicate him in this case. Appellant's conduct is unreasonable. Instead of facing trial, he absconded for a long period and could be apprehended on 15.01.2014 after a gap of about 20 years. He did not offer any reasonable explanation as to where he remained present during this long period.

5. The trial court has discussed all the relevant aspects minutely and has given cogent reasons to base conviction. The findings of the trial court on conviction warrant no intervention. Minor inconsistencies and infirmities highlighted by the appellant's counsel can be ignored safely in view of the overwhelming and positive evidence against him.

6. Regarding sentence, the appellant has suffered ordeal of trial for long. The incident pertains to the year 1989. Nothing has emerged if the appellant is involved in any other criminal case or is a previous convict. Nominal roll dated 15.11.2014 reveals that he has already undergone one year, five months and twenty days incarceration besides remission for twenty three days as on 15.11.2014. His overall conduct in jail is satisfactory. He is a first time offender. Considering the mitigating circumstances, the period already undergone by the appellant in this case shall be taken as his substantive sentence. Sentence order stands modified to that extent.

7. The appeal stands disposed of in the above terms. Copy of this order be sent to the concerned Jail Superintendent for information and necessary action. Trial court record be sent back along with a copy of this order. The appellant shall be released forthwith if not required to be detained in any other case.

(S.P.GARG)
JUDGE

APRIL 06, 2015
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