

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 538 of 2008

Ramphal S/o Shri Nansai, aged about 50 years, R/o village
Bhittikala, PS Ambikapur, District Sarguja (C.G.)

... Applicant

Versus

1. State of C.G. through Police Station Ambikapur, District Sarguja (C.G.)
2. Juglal Rajwar S/o Nansai Rajwar, aged about 44 years, occupation Labourer, R/o village Bhittikala, PS Ambikapur, District Sarguja (C.G.)
3. Jainu Rajwar S/o Amalsai Rajwar, aged about 41 years, occupation labourer, R/o village Bhittikala, PS Ambikapur, District Sarguja (C.G.)

... Respondents

For Applicant	:	None.
For Respondent No.1	:	Mr. Vinod Deshmukh, Dy. Govt. Advocate.

Hon'ble Shri Deepak Gupta, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order on Board

Per Deepak Gupta, C.J.

01/09/2016

1. Yesterday, when this case was called, there was no representation on behalf of the applicant. Today also, none appears for the applicant.
2. This is a revision petition whereby the victim has prayed for enhancement of the punishment and has also prayed that the accused be convicted for having committed the offence punishable under Section 307 of IPC.
3. The incident in question took place on 23.10.2006 i.e. almost 10 years have passed and therefore we proceed to decide the revision petition in the absence of the learned counsel for the applicant. We have

perused the records and taken assistance of the learned counsel for the State.

4. The prosecution story which has been proved on record is that the complainant Ramphal and his wife Shanti Bai were cutting paddy crops in the field. At that time brother of Ramphal namely Juglal and accused Jainu who is the brother-in-law of Juglal came to the spot and asked Ramphal as to how he was cutting the paddy. In reply, Ramphal said that he had sown paddy and therefor he is cutting the crops. Then Ramphal and his wife Shanti Bai were attacked by the two accused with a small axe like instrument causing injury to them. Both the accused were charged for the offence punishable under Section 307 of IPC.

5. The learned trial Court believed the prosecution case and came to the conclusion that the accused had committed the offence. However, the trial Court held the accused guilty for having committed the offence under Section 324 of IPC only and sentenced them to the period of imprisonment already undergone i.e. 34 days and also imposed fine of Rs. 2,500/- each in respect of the injuries caused to Ramphal and Shanti Bai separately.

6. The main ground raised in this revision petition is that the offence falls under Section 307 of IPC.

7. We are exercising revisional jurisdiction. We cannot substitute our opinion for the opinion of the Court below. We in exercise of revisional jurisdiction can only decide whether legal procedure has been followed. We can interfere and set aside the judgment only if we find that there is some gross illegality or perversity in the orders of the Court below. Merely because another view is possible is not sufficient ground to interfere in revisional jurisdiction.

8. In the present case, the two witnesses PW-5 Dr. Anupam Minj and PW-10 Dr. M. K. Jain were examined and they did not state that the

injuries caused to the injured were sufficient in the ordinary course of nature to cause death. No doubt, the injured had suffered grievous injuries. But the learned trial Court has come to a finding of fact based on the evidence that though there was sufficient evidence on record to come to the conclusion that the accused had caused grievous injuries to the injured, the medical evidence did not show that these injuries were sufficient in the ordinary course of nature to cause death. Therefore, the trial Court held that the prosecution had failed to prove beyond reasonable doubt that the accused were guilty of having committed the offence punishable under Section 307 IPC. We may also add that the injured Ramphal and one of the accused Juglal are real brothers and it appears that in the last ten years, their relations have improved as no one appears on behalf of the applicant.

9. In the present case, the learned Trial Court has come to a view which is a possible view. It cannot be said that this view is perverse. The learned Trial Court while coming to the conclusion that this is not a case which falls under Section 307 IPC has taken into consideration the nature of injuries. All relevant factors have been taken into consideration. The judgment rendered by the trial Court being based on the evidence recorded cannot be said to be perverse or without jurisdiction. We are thus clearly of the view that this is not a case where we can invoke our revisional jurisdiction to set aside the order of the learned Trial Court.

10. In this view of the matter, we find no merit in the present Criminal Revision. It is dismissed.

Sd/-
(Deepak Gupta)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge