

\$~R-67 & 68

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

% *Date of Decision : May 26, 2016*

+ **CRL.A. 1020/2015**

JUGAL @ VIKAS Appellant

Represented by: Mr.Jitender Ratta, Advocate

versus

GOVT OF NCT Respondent

Represented by: Mr.Varun Goswami, APP

CRL.A. 40/2016

MADAN LAL Appellant

Represented by: Mr.Jivesh Kumar Tiwari, Advocate

versus

STATE Respondent

Represented by: Mr.Varun Goswami, APP

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

PRADEEP NANDRAJOG, J. (Oral)

1. Believing the testimony of Om Prakash PW-1 and Vikas @ Vicky PW-9, both of whom were injured, vide impugned decision dated May 25, 2015 the learned Trial Judge has convicted the appellant for an offence punishable under Section 307/324/34 IPC and vide order on sentence dated May 27, 2015 has sentenced them to undergo RI for 4 years and pay fine in sum of ₹5,000/- each, in default to undergo imprisonment for 4 months for

the offence punishable under Section 307/34 IPC; and for the offence punishable under Section 324/34 IPC they have been sentenced to undergo rigorous imprisonment for 2 years and pay fine in sum of ₹3,000/- each and in default to undergo simple imprisonment for 3 months.

2. That Om Prakash and Vikas @ Vicky were injured on January 27, 2013 at around 2:30 PM is corroborated by the MLC Ex.PW-7/B of Om Prakash and Ex.PW-7/A of Vikas @ Vicky, duly proved at the trial by Dr.Shrikant Sumani PW-7 who had examined the two at Lady Harding Medical College. I note that the doctor has not been cross examined. The injury on Om Prakash are two clear lacerated wounds on buttocks having length 5 cm and 2 cm. The injuries have been opined to be simple. The injuries suffered by Vicky are 5 in number. They are all clear lacerated wounds on the left thigh, right thigh, neck, left wrist and right little finger. The length varies from 3 cm to maximum of 10 cm. The injuries on both are opined to be simple.

3. The testimony of the two injured eye witnesses shows that there was a simmering issue between the appellants and Vikas @ Vicky. In the morning there was a hot exchange of words. Within an hour and a half the appellants and Vikas @ Vicky came face to face. The two appellants took out a razor each and caused the injuries and in the process Om Prakash also got injured. No witness has deposed that any particular part of the body was targeted. The nature of injuries show that the razors were yielded randomly.

4. The impugned decision does not disclose any reason as to on what basis the learned Trial Judge has concluded that the two intended to kill either Om Prakash or his brother Vikas. The injuries, as noted above have been opined to be simple injuries and thus conviction of the appellants for

the offence punishable under Section 307 IPC cannot be sustained and specially for the reason the sketch Ex.PW-10/G and Ex.PW-10/M of the razors shows that they are of the kind used by barbers where a shaving blade is cut from the middle and inserted in the head of the razor. Meaning thereby, the cutting edge of the razor is about 1.5 inch in length.

5. But the conviction of the two for voluntarily causing hurt using a dangerous weapon is maintained.

6. The two appeals are disposed of setting aside the impugned decision in so far the two appellants have been convicted for the offence punishable under Section 307/34 IPC. The sentence for said offence is also set aside. The impugned decision is maintained regarding the two being convicted for the offence punishable under Section 324 IPC. When admitted to bail on April 19, 2016 Madan Lal had already undergone a sentence of more than 2 years. Jugal continues to be in jail and has suffered a sentence of more than 2 years. I therefore direct that the two shall suffer the sentence for the period already undergone without payment of any fine.

7. Bail bond and surety bond furnished by Madan Lal are discharged.

8. Jugal shall be set free forthwith if not required in some other case.

9. TCR be returned.

10. Copy of this decision be sent to the Superintendent Central Jail Tihar for updation of his record and to be supplied thereafter to Jugal.

(PRADEEP NANDRAJOG)
JUDGE

MAY 26, 2016

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