

CRR No. 427 of 2012 (O/M)
Date of decision : 29.11.2017

..... Revisionists

Versus

..... Respondent

Present:- Mr. M.K. Singla, Advocate, for revisionists.

Mr. Pawan Garg, AAG Haryana.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Custody certificates filed in Court today and same are taken on record.

This revision is filed against judgment dated 10.2.2012, passed by the learned Sessions Judge, Jind, affirming the judgment of conviction dated 4.5.2011 and order of sentence dated 5.5.2011, passed by the learned Sub Divisional Judicial Magistrate, Narwana, District Jind, vide which all three revisionists, namely, Ram Kumar, his wife Manoj Kumari and his nephew Balbir alias Billu were convicted under Sections 323 IPC read with Section 34 IPC, and under Section 325 IPC read with Section 34 IPC. They were sentenced to undergo rigorous imprisonment for three months each

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under Section 323 IPC read with Section 34 IPC. They were further sentenced to undergo rigorous imprisonment for one year each and to pay fine of Rs. 5000/- each under Section 325 IPC read with Section 34 IPC. Both the sentences were directed to run concurrently. Out of fine amount, if recovered, Rs. 10000/- was directed to be paid to injured as compensation, whereas remaining Rs. 5000/- shall go to the State as fine.

Brief facts of the case, as coming out from the statement of injured Ishwar Dutt (Ex.PA) made to the police on 21.9.2005, are that there was a dispute regarding installing of telephone connection installed opposite to the house of Ram Kumar. The BSNL authorities gave connection from the pole installed opposite the house of accused Ram Kumar on 18.9.2005. On 21.5.2005, when Ishwar Dutt (complainant) was going on his bicycle and reached in front of house of Ram Kumar, Ram Kumar came out carrying an iron rod and gave a blow on the back of Ishwar Dutt (complainant). He fell down. In the meanwhile, Manoj Kumari wife of Ram Kumar and his nephew Balbir alias Billu also came there carrying lathis and gave blows on the fallen Ishwar Dutt. Ram Kumar gave an iron rod blow on the left hand of complainant and another lathi blow was given by nephew of Ram Kumar. Ram Kumar then gave another iron rod blow on the left foot below the knee. Accused Ram Kumar also gave a brick bat blow on the nose of complainant. Revisionist raised alarm, on which Rakesh Kumar reached at the spot and removed him to hospital.

Before the lower Court, complainant appeared to support his case. Smt. Krishna also appeared and supported the prosecution case.

I have heard the learned counsel for revisionists, the learned State counsel and have also carefully gone through the file and lower Court

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file as well.

As per the statement of Dr. Rajesh Gupta (PW3), following five injuries were found on the person of Ishwar Dutt (complainant) :-

- “1. Abrasion on nose was present
2. Abrasion and swelling left forearm was present
3. Multiple abrasions on right forearm were present
4. Multiple abrasions on back were present
5. Complaining of pain upper teeth was present.”

All the injuries were caused with blunt weapon and the duration was within six hours. There was a fracture on nasal bone as well as fracture on the left rib.

Dr. R.K. Sharma (PW4) proved following four injuries on the person of Krishna wife of Ishwar :-

- “1. Reddish blue contusion on the right scapular region of size 4 cm x 1.5 cm with tenderness.
2. Reddish contusion of size 8 cm x 4 cm on the lower lateral side of right abdomen.
3. Two reddish contusions of size 5”x3 cm and 5cm x 3 cm on the upper and mid lateral side of left thigh.
4. Reddish contusion of size 4”x3” on the left buttock with tenderness.”

All the injuries were found to be simple in nature and probable duration was within 24 hours.

It comes out that when said Ishwar Dutt appeared in Court, he also claimed that his wife Krishna was also given injuries by accused. However, in the First Information Report, no injury is alleged to have been caused to said Krishna.

The learned counsel for revisionists has argued that Manoj Kumari (revisionist No. 1) is a teacher by profession and she has been falsely

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implicated and same is the case with Balbir alias Billu (revisionist No. 3), who is nephew of accused Ram Kumar (revisionist No. 2). He has not pressed present revision qua accused Ram Kumar (revisionist No. 2) on merits.

The perusal of injuries shows that at least three injuries i.e. injuries No. 1, 2 and 5 were attributed to accused Ram Kumar are abrasions on nose, forearm and back, which could be the result of fall from cycle. Injury No. 5 is merely complaint of pain in the upper teeth without any corresponding injury on the lips. It being so, it can be safely concluded that all the injuries, which are proved beyond all reasonable doubts, are attributed to accused Ram Kumar. Therefore, injuries attributed to two other accused, namely, Manoj Kumari and Balbir alias Billu (revisionists No. 1 and 3 respectively) are not proved. Injuries caused to Krishna, wife of Ishwar Dutt, were never alleged in the complaint. Therefore, the improved version given in the Court cannot be believed. There is a tendency in the parts of the country to rope in other members of the family alongwith main accused. Therefore, the possibility of roping in the wife of main accused Ram Kumar and his nephew is there. The role attributed to Manoj Kumari and Balbir alias Billu is also not corroborated by medical evidence. Hence, revision qua Manoj Kumari and Balbir alias Billu (revisionists No. 1 and 3 respectively) is allowed and they stand acquitted of the charges framed against them. Their bail bonds and surety bonds stand discharged.

Now, coming to the role of accused Ram Kumar, the learned counsel for revisionist has contended that he presses his case only on the quantum of sentence.

The medical evidence, as discussed above, shows that there was

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a fracture on the nasal bone and left rib. These injuries were attributed to Ram Kumar (revisionist No. 2). Accused Ram Kumar had motive to assault the complainant, who is a Purohit by profession. There were also disputes between the parties.

Keeping in view the fractures on the nose and left rib, as discussed above, there is no ground to release accused Ram Kumar (revisionist No. 2) on probation. Hence, revision qua accused Ram Kumar (revisionist No. 2) is dismissed. He be rearrested and committed to jail to undergo the remaining part of sentence.

In view of above, revision is partly allowed.

(KULDIP SINGH)
JUDGE

29.11.2017
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No