

13.12.2021

Court No.39
Item No.04
(Disposed of)

Akd

CRA 50 of 2001
With
I.A. No. CRAN 1 of 2001 (Old No. CAN 1141 of 2001)

Ramchandra Kapur
Vs.
The State of West Bengal

Mr. Tanmoy Kumar Ghosh,
Mr. Arindam Sen.

... for the State.

None appears for the appellant.

It appears that despite service of Administrative Notices on the appellant several times, neither he nor his learned Advocate turned up before this Court.

What I feel, the appellant has no interest to proceed with the instant appeal.

Mr. Tanmoy Kumar Ghosh, learned Advocate appearing for the State, submits that the Court may pass necessary order as the Court deems it just after going through the case record.

The appellant, Ramchandra Kapur, has preferred the instant appeal being aggrieved and dissatisfied with the judgement and order of conviction passed by the learned Additional Sessions Judge, Cooch Behar, in S.T. Case No. 1 (9) of 2000 arising out of Sessions Case No. 48 of 1995.

The prosecution case, in brief, may be stated as follows:-

On 20th August, 1993 at about 11-00 p.m. when Sarpi Paswan, husband of the informant Anjana Paswan, was returning home witnessing video show, then the appellant Ramchandra Kapur and other co-accused persons, namely Mona Kapoor and Mongal Kapoor restrained him near Malgudam, Cooch Behar, and all of them assaulted him brutally. The appellant Ramchandra Kapur stabbed the husband of the informant on his abdomen with a knife; as a result of which he sustained bleeding injury on his person. The informant alleged that the appellant and the other co-accused persons assaulted her husband in order to kill him.

On the basis of the First Information Report lodged by the

wife of the injured, a case was registered for investigation. After completion of the investigation, the Investigating Officer submitted the charge sheet against the accused persons Ramchandra Kapur and Mongal Kapoor under Section 307 of the Indian Penal Code.

Charge under Section 307 of the Indian Penal Code was framed against two accused persons including the appellant Ramchandra Kapur; to which they pleaded not guilty.

Analyzing and appreciating the evidence, learned Additional Sessions Judge, Cooch Behar by the judgment impugned found the appellant Ramchandra Kapur guilty for commission of the offence punishable under Section 307 of the Indian Penal Code, but he acquitted another charge sheeted accused namely Mongal Kapoor.

Learned Trial Judge sentenced the appellant to suffer Rigorous Imprisonment for seven years and to pay a fine of Rs.5,000/-; in default, to suffer Rigorous Imprisonment for one year more. The period of detention in imprisonment already undergone by the convict was set off.

The appellant assails the impugned judgment and the order of conviction and sentence on the ground that the learned Trial Judge passed the judgment without proper appreciation of evidence and the judgment smacks of illegality.

I have read the judgment passed by the learned Trial Judge.

I have waded through the evidence as available on record.

On further analyzing of the evidence on record, I find that the learned Trial Judge rendered the judgment with proper appreciation of the evidence. Therefore, I do not find any justification to interfere with the findings recorded by the learned Trial Judge.

Now, the question is whether the sentence as imposed by the learned Trial Judge needs to be confirmed.

The incident took place on 20th August, 1993. Thereafter, the appellant had to proceed with the Sessions Case throughout till the case was disposed of on 14th December, 2000. After

suffering from the judgment and the order of conviction and sentence, he approached this Court challenging the aforesaid judgment by way of the instant appeal.

Since the initiation of the aforesaid proceeding, more than 28 years passed, I feel that the appellant, meanwhile has suffered mental agonies as to the pending of the instant appeal.

What I find from the case record, the appellant has undergone detention for more than one year.

Having considered all the circumstances, I think that if the sentence as passed by the learned Trial Judge of Rigorous Imprisonment is reduced to one year, it will meet the ends of justice.

In view of the above the sentence as imposed by the learned Trial Judge is reduced to the sentence of rigorous imprisonment for one year without any fine.

In view of the findings as above and the modification of sentence as indicated above, the judgment of conviction and sentence passed by the learned Trial Judge is hereby confirmed.

The instant appeal along with CRAN 1 of 2001 is thus disposed of.

Let the Lower Court Records be sent down immediately along with a copy of this judgment to the learned Court below.

(Rabindranath Samanta, J.)