

27.01.2022
Court
No.40
Item no.01
AD

C.R.A 226 of 1984

Ram Shankar Shaw
Vs.
The State of West Bengal

Mr. Sawata Gopal Mukherji, ld. Public Prosecutor
..... For the State

Mr. Mukherji, learned Public Prosecutor, appearing for the respondent, State of West Bengal submits that this Court may pass necessary order as it deems just after going through the evidence on record.

It appears that administrative notice was issued to the appellant Ram Shankar Shaw. From the service return it is found that the appellant does not reside at the place where he used to reside previously. Without getting the whereabouts of the appellant, this Court appointed Mr. Bitasok Banerjee, learned advocate as amicus curiae to conduct the appeal on behalf of the appellant.

On repeated calls, none appears for the appellant.

This appeal is pending since 1984.

As pointed out by the learned lawyer for the respondent and what I feel considering the age of the appeal, this appeal should be disposed of after going through the evidence on record.

The appellant preferred the instant appeal being aggrieved by the judgment and order of conviction and sentence passed by learned

Sessions Judge, Hooghly in Sessions Trial No.47 of 1983 whereby the appellant was convicted for commission of the offence punishable under Section 307, I.P.C and sentenced to suffer rigorous imprisonment for four years and to pay a fine of Rs.500/-, in default to suffer rigorous imprisonment for two months more.

The prosecution case, as transpires from the F.I.R, may briefly be stated as under:

On 10th March, 1981 between 7.30 p.m and 8.00 p.m P.W.7 Madhu Sudhan Chakraborty with his son Kartick Chakraborty (P.W.2) were coming to their house at Joraghat Chinsurah Town from Kamarpara, Chinsurah. At that time the appellant attacked the informant and assaulted him with knife on his abdomen, chest and back causing serious bleeding injuries on his person. As a result of which, P.W.7 became unconscious. Thereafter, he was taken to Chinsurah Imambara Sadar Hospital for his medical treatment.

On the basis of the F.I.R lodged at Chinsurah Police Station, one Chinsurah Police Station Case No.27 dated 10th March, 1981 under Sections 326, I.P.C was registered for investigation against the appellant/convict. After completion of the investigation the Investigating Officer submitted charge sheet against the appellant under Sections 326/307, I.P.C. Ultimately charge under Section 307, I.P.C was framed against the appellant who pleaded not guilty to the charge and claimed to be tried.

What I find from the case record, the prosecution examined as many as eleven witnesses including the injured, the Doctor who

examined the injured, the son of the informant and the I.O of the case.

As it appears from the evidence of P.W.7 and P.W.2, the appellant/convict inflicted injuries on the person of the injured with knife. In this context, the evidence of P.W.10, Dr. Parimal Kumar Sen may be excerpted. After medical treatment on the person of the injured P.W 10 Dr. Parimal Kumar Sen has opined as under :

- “1. Incised locking (sic.) wound about 3½” X x½ on the front of right lower chest extending from nipple line to 2” from mid-line and 3” belww (sic.) the nipple.
2. Incised looking wound over the left pectoral region about 1” x ½“ x 1”.
3. Incised looking wound about 1” x ½ “ penetratin into the abdominal cavity at the level of left 8 rib 1” medical to the nipple line a tag omentum coming out through the wound.
4. Incised looking wound about 1 ¼ “ x ½ x 1” over the upper part of the back in the mid-line.
5. Incised looking wound about 1 ½ “ x ¼ “ x 1” over the back in the mid line about the level of 5th dorsal spine.”

The evidences of P.W.7, P.W.2 and P.W.10 conjointly show that the prosecution has been able to bring home the charge under section 307, I.P.C. Therefore, this Court is of the opinion that the conviction, as recorded by the learned trial Judge, is justified.

Now, the question arises what will be the quantum of the sentence to be imposed upon the appellant.

As quoted above, the incident took place on 10th March, 1981. The appellant/convict had to continue with the prosecution case trial before the learned Court below since March, 1981 till he was convicted on 21st May, 1984. Being dissatisfied with the judgment of conviction he preferred the instant appeal in the year 1984.

What I feel, for the long period of continuance of the criminal proceeding as well as the instant criminal appeal, the appellant had

to go immense mental pains and agonies. The case record shows that the whereabouts of the appellant is not available before the Court. Despite the best endeavour on the part of the Court the appellant could not be brought on record. One learned advocate who was appointed for the appellant as amicus curiae has also failed to present his case before this Court.

Having considered the facts and circumstances of the case, the long pendency of the appeal and the mental pains and agonies suffered by the appellant/convict, I feel that if the sentence is reduced to one month which the appellant has already served, it will serve the interest of justice.

In view of the above, the appeal is dismissed.

The conviction as recorded by the learned trial Judge is confirmed. The appellant/convict is sentenced to suffer rigorous imprisonment for one month. The convict has already served out such sentence.

Therefore, on serving of sentence by the appellant, the appellant be set at liberty.

The appellant be discharged from the bail bonds.

Send down the L.C.R to the learned Court below along with a copy of this judgment.

(Rabindranath Samanta, J.)