

(2019) 09 RAJ CK 0041

In the Rajasthan High Court

Case No : Criminal Revision Petition No. 250 Of 2019

Jeetu Singh And Ors

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 05-09-2019

Acts Referred:

Indian Penal Code, 1860 — Section 34, 148, 149, 307, 308, 336, 353
Code Of Criminal Procedure, 1973 — Section 397

Citation : (2019) 09 RAJ CK 0041

Hon'ble Judges : Dr. Pushpendra Singh Bhati, J

Bench : Single Bench

Advocate : LS Jakhaniya, Mahipal Vishnoi

Final Decision : Allowed

Judgement

1. Petitioners have preferred the present revision petition claiming the following relief :-

"It is, therefore, most humbly and respectfully prayed that this revision petition may kindly be allowed and impugned order dated 09.01.2019 passed by learned Addl. Sessions Judge No.2, Nagaur in Sessions Case NO.07/2017 may kindly be quashed and set aside and the petitioners may kindly be ordered to be discharged from the offence under Section 148, 332/149, 353/149, 336/149, 307/149 of IPC."

2. Learned counsel for the petitioner has relied upon the judgment rendered by this Court in Magha Ram Meghwal & Ors. Vs. State of Rajasthan reported in 2017(3) Cr.L.R. (Raj.) 1352. The said judgment reads as under :-

"By way of this revision preferred under Section 397 Cr.P.C., the petitioners seek to assail the order dated 22.8.2016 passed by learned Additional Sessions Judge No.1, Nagaur whereby, the trial Court framed charges against the petitioners for the offences under Sections 341, 323, 323/34, 325/34, 308, 308/34 I.P.C.

Learned counsel Shri Jakhaniya restricted his arguments to the extent of the charge under Section 308 I.P.C. He urges that the sole injured Sohan Ram suffered 7 superficial and trivial injuries on his person in the incident at hour. Of the 7 injuries, one on the right leg was opined to be grievous as there was a fracture of right lower 1/3 part of fibula bone. Out of the 7 injuries, there was abrasion measuring 0.5 cm x 0.5 cm on occipital region of the injured. He thus, urges that the trial court was not at all justified in framing charge against the petitioners for the offence under Section 308 I.P.C. because neither knowledge nor intention to cause such injury which could prove fatal can be attributed to the petitioners in view of the nature and location of the injuries inflicted to the injured. He thus craves for acceptance of the revision and urges that the impugned order deserves to be set aside to the extent of the charge under Section 308 I.P.C.

Per contra, learned counsel Shri Solanki representing the complainant and learned Public Prosecutor vehemently opposed the submissions advanced by the petitioners' counsel. They urged that as the petitioners inflicted numerous injuries including a head injury to the injured, the trial court rightly framed charge under Section 308 I.P.C. against them.

I have given my thoughtful consideration to the arguments advanced by the learned counsel representing the parties and have gone through the material available on record.

The injured Sohan Ram suffered the following injuries in the incident as per the injury report dated 15.6.2015:-

- (1) Reddish diffuse swelling and tenderness is present over lower 1/3 part of rt leg.
OR/Xray/blunt
- (2) Abrasion 0.5 x 0.5 cm red blood on left occipital region
simple/blunt
- (3) Laceration 3x0.5 cm red blood on lower 1/3 left thigh
simple/blunt
- (4) Laceration 2x0.5 cm red blood upper 1/3 rt leg
simple/blunt
- (5) Laceration 3x0.5 cm red blood middle 1/3 rt leg
simple/blunt
- (6) Abrasion 2x0.5 cm red blood upper 1/3 left leg mediog
simple/blunt

(7) Abrasion 2x0.5 cm red blood on lower 1/3 left leg
simple/blunt

After examination of MLX X Ray plates No.8924/15/6115 there are fracture of Rt Lower 1/3 part of fibula bones. So injury No.1 is grievous in nature."

On going through the description of the injuries, it is apparent that the sole injury on the head of the injured was 0.5 x 0.5 cm and was not having any depth whatsoever. Thus, apparently, the injury was trivial and superficial. The other injuries were all located on the legs of the injured.

In this background, I am of the firm opinion that the accused cannot be attributed either the knowledge or the intention of causing such injuries to the injured which could prove fatal so as to make them liable for the offence under Section 308 I.P.C.

Resultantly, the trial court was not at all justified in framing charge against the petitioners for the offence under Section 308 I.P.C. The impugned order to that extent is per-se illegal.

As an upshot of the above discussion, the revision deserves to be and is hereby allowed. The impugned order is set aside to the extent the trial court framed charges against the petitioners for the offence under Section 308 I.P.C. in the alternative for the offence under Section 308/34 I.P.C. The accused petitioners are discharged of the said offence. Rest of the charges are maintained. Since the accused have been discharged from the sole offence triable by a court of Sessions, the matter shall be remitted to the concerned CJM for trial as per law.

The revision is allowed in part accordingly."

3. In this case also, learned counsel for the petitioner restricts his argument to the extent of charge under Section 307 of IPC.

4. Learned counsel for the petitioner has demonstrated from the injury report that all the injuries sustained by Shanti Lal, Sahipal, Ramniwash S/o Ganpat Ram, Ramniwash S/o Ram Ratan, Gopal Ram, Bala Ram, Jumara Ram were recorded to be simple in nature. It is also contended that the facts of the case as well as injuries on the face of it clearly indicate that there was no intention to cause any injury which could prove fatal. Learned counsel for the petitioner, thus, craves for acceptance of the revision while urging that the impugned order may be set aside to the extent of the charge under Section 307 of IPC.

5. Learned Public Prosecutor submits that some of the injuries are on head and the charge has been rightly framed under Section 307 of IPC.

6. This Court, after considering the arguments advanced by the learned counsel for the parties and having gone through the record of the case, finds that the injuries are all simple in nature and facts of the case do not indicate any intention to cause fetal injuries. The injury report reflects as under :-

"1. Shanti Lal- 2 Abrasion on left side of head on occipital part C/o bleeding, C/o swelling, pain on left side of thigh (left Side). Simple / blunt

2. Sahipal - C/o swelling pain on left side of parietal part of head., C/o swelling pain on left side of shoulder. Simple / blunt

3. Ram Niwas S/o Ganpat Ram- C/o Hand wrist C/o abrasion and blood clots swelling and pain, C/o pain and multiple abrasion on back, C/o pain on left side leg toe. Simple / blunt

4. Ram Niwas S/o Ram Ratan - Abrasion on middle of neck, Abrasion on left hand wrist, C/o pain on right knee. Simple / blunt

5. Gopal Ram - C/o left hand wrist - pain and swelling, C/o swelling on left foot little finger. Simple / blunt

6. Bala Ram - Left hand elbow swelling and pain, C/o pain on left side of knee.

Simple / blunt

7. Jumara Ram - C/o Left hand ring finger phalangers swelling and pain.

Simple / blunt"

7. After seeing the record thoroughly as well as injury report, it is apparent that all the injuries are trivial and superficial, and thus, the facts do not indicate that the accused can be attributed with the intention to cause fatal injuries.

8. Resultantly, the trial court was not at all justified in framing charge against the petitioner for the offence under Section 307 I.P.C. The impugned order to that extent is per-se illegal.

9. In light of the aforesaid observation, the revision petition is allowed and the impugned order is set aside to the extent the trial Court framed charges against the petitioners for the offence under Section 307/149 of IPC. The accused - petitioners are discharged from the offence under Section 307/149 of IPC, while rest of the charges are maintained.