
(2013) 09 DEL CK 0254
In the Delhi High Court
Case No : Criminal A. 415 of 2003

Naresh Saini and Others

APPELLANT

Vs

State of Delhi

RESPONDENT

Date of Decision : 25-09-2013

Acts Referred:

Penal Code, 1860 (IPC) — Section 308, 323, 324, 34, 341

Citation : (2013) 09 DEL CK 0254

Hon'ble Judges : S.P. Garg, J

Bench : Single Bench

Advocate : K.B. Andley and Mr. M.L. Yadav, for the Appellant; M.N. Dudeja, APP, for the Respondent

Final Decision : Disposed Off

Judgement

S.P. Garg, J.—Naresh Saini (A-1), Prabhu Dayal (A-2) and Sardar Preetam Singh (A-3) were sent for trial for committing offence punishable under Sections 308/506/341/323/34 IPC on the allegations that on 04.06.1997 at about 11.00 P.M. near House No. 499, Hardev Puri, Gautam Nagar, they in furtherance of their common intention inflicted injuries to Yogender Kumar, Virender Kumar and Jatan Swarup and criminally intimidated them. Vide order dated 18.01.2001, they were charged for committing offences under Sections 308/506/34 IPC. The prosecution examined six witnesses to establish the charges. In their 313 statements, A-1 to A-3 pleaded false implication. On appreciating the evidence and after considering the rival contentions of the parties, the Trial Court, by the impugned judgment dated 13.05.2003 in Sessions Case No. 87-A/2001 arising out of FIR No. 573/97 PS Defence Colony convicted them u/s 324/34 IPC. By an order dated 16.05.2003, they were sentenced to undergo RI for two years with fine Rs. 5,000/- each. During the course of arguments, appellants' counsel on instructions stated at Bar, that the appellants have opted not to challenge their conviction u/s 324/34 IPC and accept it voluntarily. He, however, prayed to take lenient view and modify the sentence order as the appellants are not previous

convicts and are not involved in any other criminal case. They are willing to compensate the injured. Learned Addl. Public Prosecutor has no objection to consider the mitigating circumstances for modification of the sentence order.

2. Since the appellants (A-1 to A-3) have not opted to challenge findings of the Trial Court on conviction u/s 324/34 IPC and accept it voluntarily in the presence of overwhelming evidence adduced by PW-1 (Yogender Kumar), PW-2 (Virender Kumar) and PW-3 (Jatan Swarup), the victims/injured coupled with medical evidence, the conviction u/s 324/34 IPC stands affirmed. Appellants were granted anticipatory bail vide order dated 11.06.1997. Injuries on the person of Yogender Kumar and Virender Kumar were opined "simple" in nature caused by blunt object. Jatan Swarup sustained "grievous" injuries with blunt object. The incident occurred on 04.06.1997. The appellants have suffered agony of trial/appeal for about sixteen years. The quarrel took place between the parties on a trivial issue. They had prior acquaintance and the accused persons used to hire A-1's tempo to bring vegetables from the market. On the day of incident, the appellants went to A-1's residence to reason as to why he had stopped another tempo driver Bengali not to bring their vegetables in his tempo. A quarrel ensued there without any prior planning or meditation. The appellants were not armed with deadly weapons. They did not anticipate the arrival of the victims there to pick up quarrel. No repeated fatal blows were inflicted on vital organs. The injured were not admitted in the hospital and were discharged soon after their examination. The appellants have clean antecedents and are not involved in any criminal activity. They have offered to compensate the injured. Taking into consideration all these mitigating circumstances, it is a fit case where the appellants can be released on probation of good behaviour. Considering all these facts and circumstances of the case, and also the fact that A-1 is getting treatment from AIIMS for suspected Cancer, the order on sentence is modified and instead of sentencing the appellants at once to any punishment, they are ordered to be released on probation on their furnishing personal bond in the sum of Rs. 50,000/-, each with one surety, each in the like amount to the satisfaction of the Trial Court for a period of two years and to appear and receive sentence when called upon, and in the meantime, they shall keep peace and good behavior. A-1 and A-2 shall deposit Rs. 50,000/- each and A-3 shall deposit Rs. 30,000/- as compensation before the Trial Court within 15 days. The Trial Court shall issue notice to the injured/victims-Yogender Kumar, Virender Kumar and Jatan Swarup to receive the compensation. Rs. 70,000/- shall be paid to Jatan Swarup and Rs. 30,000/- each shall be paid to Yogender Kumar and Virender Kumar. The appeal stands disposed of in the above terms. The Trial Court record be sent back forthwith with the copy of the order for compliance.