
(2005) 08 RAJ CK 0038
In the Rajasthan High Court
Case No : Criminal R.P. No. 283 of 2005

Nawal Ram

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 09-08-2005

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 397, 401
Penal Code, 1860 (IPC) — Section 313, 323, 341

Citation : (2005) CriLJ 4726

Hon'ble Judges : H.R. Panwar, J

Bench : Single Bench

Advocate : Chaitanya Gehlot, for the Appellant;

Final Decision : Dismissed

Judgement

H.R. Panwar, J.—This criminal revision u/s 397/401 of the Code of Criminal Procedure, 1973 (for short, "the Code") is directed against the judgment and order dated 5-1-2005. passed by the Additional Chief Judicial Magistrate, Nathdwara, district Rajsamand (for short, "the trial Court" hereinafter) in Criminal Regular Case No. 265/2003, by which the trial Court acquitted accused/non-petitioner Nos. 2 to 4 of the offences under Sections 341 and 323, IPC. Aggrieved by the judgment and order impugned, the petitioner-complainant has filed the instant revision petition.

2. I have heard learned Counsel for the petitioner and perused the judgment and order impugned.

3. P.W. 1 Nawal Ram is the complainant-petitioner, who, in his statement has stated that accused/non-petitioner Nos. 2 to 4 gave beatings to him by kicks and fist blows. P.W. 2 Gordhan is the son of the petitioner, who has stated that there was noise in the street and suddenly he heard loud voice and when he came out, his father met him on the way and told that including non-petitioner Bharat Kumar, there were three other persons who gave beatings to him. P.W. 3 Mst.

Basanti, wife of the petitioner-complainant, also made the similar statement. However, all these witnesses have admitted that it was a thickly populated area and there were many persons present on the spot, but no independent witness has been produced by the prosecution. P.W. 4 Heera Lal did not support the prosecution case. P.W. 5 Dr. Jai Singh noticed two simple injuries on the person of the injured.

4. The accused/non-petitioners made statements u/s 313 of the Code and denied the occurrence. They produced D.W. 2 Nathu as defence witness, who has stated that the petitioner and his son Gordhan slipped and fell down from the wall and suffered injuries by a stone. He was the person who was working as mason for raising the wall. The prosecution witnesses have stated that some of the neighbours, viz. Mangi Lal, Veni Ram, Daulat Ram, Logar Singh, Udai Lal and Shankar Lal, were present on the spot at the time of the occurrence and they rescued the petitioner. None of these persons has been produced by the prosecution. There are material contradictions in the statements of the petitioner, his son Gordhan and wife Smt. Basanti. The presence of non-petitioner Bharat Kumar was not established at the place of the occurrence.

5. The trial Court, noticing the various infirmities in the prosecution case, came to the conclusion that the prosecution has failed to prove the case against the non-petitioners beyond reasonable doubt. On close scrutiny of the evidence on record and keeping in view the fact that there were numerous persons present at the place of the occurrence but none of them has been produced by the prosecution, I am of the view that the trial Court was justified in acquitting the accused/non-petitioners. In the circumstances, therefore, I do not find any error, illegality or perversity in the judgment and order impugned, requiring interference in the provisional jurisdiction.

6. Consequently, the revision petition is dismissed.