
(2013) 12 MP CK 0152

In the Madhya Pradesh High Court

Case No : Criminal Revision No. 1630 of 2013

Puran Lal Ghosh

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

Date of Decision : 04-12-2013

Acts Referred:

Citation : (2013) 12 MP CK 0152

Hon'ble Judges : N.K. Gupta, J

Bench : Single Bench

Advocate : Pradeep Dwivedi, for the Appellant; S.K. Kashyap, Public Prosecutor, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Gupta, J.—Heard on admission. The applicant has challenged the order dated 16.7.2013 passed by the learned 3rd Additional Sessions Judge, Teekamgarh in S.T. No. 188/2012, whereby the charges of the offences punishable under Sections 307 /34 of the IPC were framed against the applicant.

2. The prosecution's case, in short is that, on 16.6.2012 at about 12:00 O'clock in the night, a programme was going on in the house of the applicant. The applicant directed the co-accused persons to fire in the air and thereafter, the accused Mangal Singh Ghosh fired from the gun in the air and thereafter, the accused Akhilesh Ghose fired from the gun and so many pellets inserted to the victim Jaihind Singh and he was taken to the hospital, where the treatment was done.

3. After due investigation, a charge sheet was filed for the offences punishable under Sections 308 and 308 /34 of the IPC, whereas the learned Additional Sessions Judge has framed the charges of the offences punishable under Sections 307 /34 of the IPC.

4. After considering the submissions made by the learned counsel for the parties and looking to the facts and circumstances of the case, it appears that it is the

defence of the applicant that he was not intended that any injury be caused to the victim Jaihind Singh. In support of his contention, the learned counsel for the applicant has placed his reliance upon the order passed by the Single Bench of this Court in the case of Praveen @ Chukha and another Vs. State of M.P., to show that for constitution of the offence punishable u/s 307 of the IPC, the intention of the accused be also seen. Learned counsel for the applicant has also placed his reliance upon the order passed by the Single Bench of this Court in the case of Vardichand Vs. Rameshwar and others, , in which it is laid that the intention of the accused should be seen. Similarly, learned counsel for the applicant has also placed his reliance upon the order passed by the Single Bench of this Court in the case of Rajan alias Rajendra Brahman Vs. State of M.P., , which indicates in a similar manner.

5. For framing of the charges, it is for the trial Court to see that, if no rebuttal evidence is adduced then, as to whether the accused can be convicted for the offence punishable u/s 307 of the IPC on the basis of the evidence collected in the charge sheet and if answer is affirmative then, the charge of Section 307 of the IPC shall be framed. In the present case, the charges against the applicant have two parts: firstly, whether any charge u/s 307 of the IPC can be framed against the accused Akhilesh Ghosh and secondly, whether the applicant had the common intention with the accused Akhilesh. If some fire is made in the air then, there is no possibility to get the injuries to the person present in the programme by such firing and if such injuries caused then, the injury should be caused to so many persons by the pallets turned from the roof or other objects. In a particular case, it is mentioned that the accused Akhilesh fired upon the victim Jaihind by aiming upon him. Under such circumstances, prima facie, it would be apparent that he intended to kill the victim Jaihind. Consequently, the charge of the offence punishable u/s 307 of the IPC shall be framed against the accused Akhilesh. In the light of the order passed by the Single Bench of this Court in the case of Vardichand (Supra) and Praveen @ Chukha (Supra), the intention of the accused Akhilesh is prima facie visible.

6. So far as the second part is concerned, it would be apparent that initially, the applicant directed to one Mangal for firing in the air and thereafter, he directed the accused Akhilesh to fire and when Akhilesh fired from the gun, the applicant Puran Lal was laughing. It would be apparent that when the victim Jaihind, who sustained the injuries and the applicant neither accompanied with the victim to the hospital nor to the police station nor he said anything that he did not have any intention with the accused Akhilesh. The intention and common intention of the applicant can be seen by his conduct and circumstances. Under such circumstances, where the common intention of the applicant is established prima facie, it cannot be said that the applicant had no any common intention with the accused Akhilesh. Consequently, the charges of the offences punishable under Sections 307 /34 of the IPC should have been framed against the applicant. The trial Court has rightly observed that prima facie, there was an intention of the accused Akhilesh to kill the victim Jaihind, otherwise how the pallets could be

inserted to the victim Jaihind.

7. Under such circumstances, where there is no illegality or perversity visible in the order passed by the trial Court though, the charge sheet was filed under Sections 308 and 308 /34 of the IPC, the trial Court was correct in framing of the charges for the offences punishable under Sections 307 or 307 /34 of the IPC. There is no basis by which any interference can be done in the impugned order passed by the learned 3rd Additional Sessions Judge, Tikamgarh.

8. Consequently, the present revision filed by the applicant Puran Lal Ghosh cannot be accepted and hence, it is hereby dismissed at motion stage. Copy of the order be sent to the trial Court for information.