
(2019) 03 GUJ CK 0021

In the Gujarat High Court

Case No : R/Criminal Appeal No. 421, 422, 1117 Of 2004

Rabari Naran Gogan Karamta & 3 Other(S)

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 01-03-2019

Acts Referred:

Indian Penal Code, 1860 — Section 307, 323

Citation : (2019) 03 GUJ CK 0021

Hon'ble Judges : R.P.Dholaria, J

Bench : Single Bench

Advocate : Yogesh S Lakhani, Monali Bhatt, Ma Bukhari

Judgement

1. Criminal Appeal No.1117 of 2004 is preferred the convicted accused against the judgment and order dated 15.6.2004 passed by learned rd Fast Track Judge and Additional Sessions Judge, Junagadh in Sessions Case No.61 of 1998, whereas Criminal Revision Application No.421 of 2004 is filed by the wife of injured seeking reversal of acquittal under section 07 of IPC of the accused persons and whereas Criminal Revision Application No.422 of 2004 is preferred by the wife of the injured seeking enhancement of punishment.

2. As the aforesaid Criminal Appeal and the Criminal Revision Applications are arising out of the judgment and order under challenge and with the consent of learned advocates for the parties, all these matters are being taken up for hearing and are disposed of by this common judgment.

3.Mr.Yogesh Lakhani, learned senior advocate pointed out that victim - Sidibhai Sarmanbhai received simple injury over the had and other parts of the body and he had undergone treatment for eight days as an indoor patient and upon examination by the Doctor, there was no fracture. In view of the aforesaid factual position, since the incident in question happened for about 22 years back and the accused also must have remained in jail during the trial for some days and at the most, the offence could be made out under section 2 of IPC. He, therefore,

submitted that due to time lag, this Court may show some leniency and put an end to the entire proceedings while enhancing the fine.

4. On the other-hand, Ms.Monali Bhatt, learned APP has supported the judgment rendered by learned trial Court so far as it relates to conviction of the appellant - original accused. She submitted that this is a fit case wherein learned trial Court has considered voluminous evidence in its proper perspective and rightly convicted the accused. She submitted that finding recorded by learned trial Court is based upon the concrete and clinching evidence and therefore, punishment inflicted upon the accused does not call for any interference.

5. This Court has heard Mr.Yogesh Lakhani, learned senior advocate for the appellants - accused, Ms.Bhatt, learned APP for the State and Mr.M.A.Bukhari, learned advocate for the original complainant.

6. This Court has minutely gone through the Record and Proceedings, evidence of material witnesses and perused the impugned judgment.

7. On going through the evidence of the victim as well as two Doctors who treated him, it is clearly emerging out that the victim received single injury over his head and he came to be discharged on 6.12.1997. The victim had remained as indoor patient for about seven days and injury was found to be not grievous in nature. The incident in question had happened due to collision of two bullock carts against each other and therefore, on spur of moment, the incident in question had happened and it is not the result of premeditation. Under the circumstances, this Court is of the considered opinion to reduce the sentence to the extent of sentence already undergone by the appellants accused while increasing fine.

8. For the reasons recorded above, the appeal succeeds partly. The impugned judgment and order dated 15.6.2004 passed by learned rd Fast Track Judge and Additional Sessions Judge, Junagadh in Sessions Case No.61 of 1998 is confirmed so far it relates to conviction. The appellants accused are convicted and sentence is imposed to the extent they have already undergone. The appellants accused need not to surrender before the jail authority for serving the sentence. The appellant - Rabari Bhoja Gogan Karamatta is directed to deposit fine of Rs.10,000/- and rest of the appellants are directed to deposit fine of Rs.5000/- each within a period of two months before learned trial Court. On deposit of fine by the appellants as aforesaid, the same be handed over to the wife of victim Vejiben Sidibhai Sarmanbhai by way of account payee cheque as the amount of compensation after due identification and verification. In default of payment of fine aforesaid, the appellants accused to undergo imprisonment for one month. The case stands closed. Bail bond, if any, stands cancelled. Record & Proceedings, if any, be sent back to the trial Court concerned forthwith.