

(2010) 07 RAJ CK 0049
In the Rajasthan High Court

Rajendra Singh @ Deena and Another and Roshan Lal and Another

APPELLANT

Vs

State of Raj.

RESPONDENT

Date of Decision : 12-07-2010

Acts Referred:

Citation : (2010) 07 RAJ CK 0049

Hon'ble Judges : Satya Prakash Pathak, J;S.S. Kothari, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Heard learned Counsel for the appellant as well as learned Public Prosecutor for the State and also learned Counsel for complainant on the applications for suspension of sentence.

2. It appears that earlier the application for suspension of sentence was accepted by this Court and on filing SLP, the order passed in favour of the accused suspending the sentence was set aside with the observation that speaking order was required to be passed.

3. It has been the contention of the learned Counsel that in the instant case so far as the accused-applicants namely; Rameshwar & Roshanlal are concerned, no overt-act has been assigned in relation to causing any injury on the person of deceased. Therefore, as far as above accused-applicants are concerned, their matters require consideration for suspension of sentence.

4. It has also been contended that the accused-applicants were on bail during the course of trial. In relation to other accused-applicants namely; Rajendra Singh @ Deena & Prakash, it is submitted that in post-mortem report except injury on the head, there were abrasions and two lacerated wounds, therefore, in the First Information Report lodged by PW-5, no specific overt-act was assigned to Rajendra and Prakash. Therefore, their matters also require consideration.

5. On the other hand, it has been contended that the deceased sustained as many as 13 injuries and out of 13, two were lacerated wound and the cause of death was head injury. It is submitted that since specific overt-act has been assigned to two persons, therefore, their application for suspension of setence requires to be dismissed.

6. We have considered the submissions and perused the statements of eye-witnesses and also the overt-act assigned to them, without commenting on merits and demerits of the case, we are of the opinion that during pendency of appeal, the sentence awarded to the accused-appellants [Rameshwar & Roshan Lal] should be suspended.

7. Accordingly, both the applications are partly allowed and the sentence awarded by the trial Court to the accused-appellants namely; Rameshwar & Roshan Lal S/o Sh. Bhagwana vide judgment dt.27/06/2007 in Sessions Case No. 16/2001 shall remain suspended during pendency of appeal and they shall be released on bail provided each of them furnishes a personal bond in the sum of Rs. 30,000/- with two sureties in the sum of Rs. 15,000/- each to the satisfaction of the trial Court to appear before this Court on 13/08/2010 and as and when they are called upon to do so.

8. Applications for suspension of sentence in relation to accused namely; Rajendra Singh @ Deena S/o Sh. Hanuman Singh and Prakash S/o Sh. Moturam stand dismissed.