

(2014) 08 TP CK 0013
In the Tripura High Court
Case No : CRL. REV. P. 39 of 2006

Shyamal Murasingh VsThe State of Tripura

Date of Decision : 08-08-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 161
Penal Code, 1860 (IPC) — Section 307, 323, 34

Citation : (2014) 08 TP CK 0013

Hon'ble Judges : Deepak Gupta, C.J

Bench : Single Bench

Advocate : S. Sarkar, Advocate for the Appellant; R.C. Debnath, Addl. P.P,
Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Deepak Gupta, C.J.—This revision petition is directed against the order dated 27-03-2006 passed by the learned Additional Sessions Judge, Belonia, South Tripura in case No. S.T. 2(ST/B) of 2006 framing charge against the present petitioners for having committed an offence punishable under sections 323 and 307 read with section 34 of the Indian Penal Code(IPC).

2. The main contention of Mr. S. Sarkar, learned counsel for the petitioners is that the basic ingredients of section 307 are not made out and so no charge u/s 307 of the IPC.

3. The allegation of the prosecution is that while the injured was sitting in a tea shop, the accused entered into the tea shop, took off his helmet and hit the injured with the helmet with the intention of killing him and on this allegation the charges had been framed.

4. I have gone through the statements of the witnesses recorded u/s 161 of Cr.P.C. and almost all the witnesses have stated that the petitioners hit the injured with the helmet with the intention of killing/murdering him. It has been urged by Sri Sarkar relying upon the judgment of the Apex Court in Hari Kishan Vs. Sukhbir Singh and Others, especially the observations made in para-7

thereof that even if this evidence is accepted to be true, no intention to murder can be deduced. In this behalf, he has submitted that, (i) the occurrence took place at the heat of the moment, (ii) that the weapon of offence is not a dangerous weapon but a helmet which the petitioners would have been carrying since he was on a motorcycle, (iii) that the nature of injury received was simple, and (iv) that, there is only one single injury.

5. As far as the last contention is concerned, there is only one single injury on the head but there are injuries on other parts of the body like the eye also. The injuries are, no doubt, simple but merely because the injuries are simple, it cannot be said that the accused did not have the intention to kill the injured. At the stage of framing charge, the statements of the witnesses have to be taken as the gospel truth and when they state that the intention of the petitioners was to kill then that statement will have to be accepted as true. Whether the petitioners are finally convicted or not u/s 307 or under any other section is not for this Court to decide but it cannot be said that this is a case of no evidence where no charge u/s 307 could be framed.

6. It is indeed said that this petition against framing of charge has been pending for 8 long years. In this view of the matter, the petition is dismissed. Since the matter is an old one, the learned trial Court is directed to dispose of the case as early as possible, and in any event not later than 30-04-2015.

7. The criminal revision petition is disposed of. Send down the lower court records forthwith.