
(1952) 05 GAU CK 0019
In the Gauhati High Court
Case No : Criminal Appeal No. 10 of 1952

Singram Marak and Another	Vs	APPELLANT
The State		RESPONDENT

Date of Decision : 26-05-1952

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 32
Penal Code, 1860 (IPC) — Section 53

Citation : AIR 1953 Guw 201

Hon'ble Judges : T.V. Thadani, C.J.; Haliram Deka, J

Bench : Division Bench

Advocate : P.K. Gupta, for the Appellant; D.N. Medhi, Government Advocate (Sr.), for the Respondent

Final Decision : Dismissed

Judgement

Thadani, C.J.—The two appellants Singram Marak and Ranen Sangma have been convicted by the learned Deputy Commissioner, Garo Hills u/s 395, Penal Code and each sentenced to rigorous imprisonment for five years and to pay a fine of Rs. 300/- or in default to undergo further rigorous imprisonment for 12 months. Out of the fine if realised, Rs. 500/- have been ordered to be paid to the complainant Songji Mechik as compensation.

2. The case for the prosecution was that on the night of 31-5-51, the three appellants along with two others entered the house of the complainant Songji Mechik in which were sleeping her nephew Okhe Sangma and her mother, Bangri Mechik. Some 20 more persons stood outside. The intruders demanded money from Songji Mechik. Appellant Ranen is said to have tied her nephew Okhe by the leg to the bed post. Songji Mechik pointed out her suit case lying under the bed wherein she had kept her money. The intruders took the suit case which contained Rs. 500/- in cash, five pieces of cloth, a bottle of M & B Tablets and some papers. After the culprits had disappeared, neighbours came to the house of Songji Mechik, one of them was the Laskar of village (P. W. 9). Songji and

other inmates of the house told him that five persons had entered the house among whom she recognised Singram and Ganna Sangma, whom she knew previously; as regards the third, she said she knew him by face but did not know his name. The Laskar (P. W. 9) saw for himself that the door was broken open. He was informed that the suit case containing Rs. 500/- and some clothes had been taken away by the dacoits. Appellant Ranen also turned up at the house of Songji Mechik; when he came, Songji and her nephew Okhe pointed him out as one of the dacoits. The Laskar arrested him and shortly afterwards made a report to the Police Station in which the names of the two appellants and Ganna who has been acquitted by the learned Deputy Commissioner were mentioned in the F. I. R. On completion of the investigation, the three appellants were sent up for trial. The accused Ganna was acquitted by the learned Deputy Commissioner who gave him the benefit of doubt. The two appellants were convicted and sentenced as we have stated before.

3. Mr. Gupta for the appellants "contends that the case of Singram Marak is not distinguishable from the case of Ganna and that if the learned Deputy Commissioner gave Ganna the benefit of doubt, Singram should have been likewise given the benefit of doubt and acquitted. The learned Deputy Commissioner however points out that it is in evidence that there was not much love lost between Ganna and the prosecution witnesses. He, therefore, as a matter of caution gave Ganna the benefit of doubt. We ourselves think that the learned Deputy Commissioner was unnecessarily cautious in giving Ganna the benefit of doubt. So far as Singram is concerned, we are satisfied that he has been properly convicted. P. W. 1, Songji Mechik knew him by name before the occurrence. So did her nephew Okhe. Both implicated Singram at the earliest opportunity. Their evidence is corroborated by the evidence of the Laskar P. W. 9 and other witnesses who later came to the scene of the offence. We see no reason to differ from the appreciation of the evidence as appreciated by the learned Deputy Commissioner.

4. So far as Ranen is concerned, it is said that his arrival at the scene of the offence when the Laskar came is inconsistent with his participation in the crime. But as the learned Deputy Commissioner points out this Ranen was in all probability knocking about in the locality to see how things were shaping, He might well have thought that as he was not a resident of the locality and hailed from Pakistan, his presence would not be taken very much notice of. But unfortunately for him, the inmates of the house knew him before by his face and so as soon as he came to the house of Songji Mechik when the Laskar was there, Songji Mechik and her nephew had no difficulty in identifying him, whereupon Ranen was put under arrest by the Laskar. Nothing has been alleged against the Laskar. If Ranen had not been implicated by Songji Mechik and her nephew it is not reasonable to suppose that a man in the position of Laskar would have arrested him and taken him to the Police Station.

5. Ranen's defence was that he was physically incapable of committing the

crime; because of his injured leg he was unable to take a journey to a hilly country; moreover he was on the night in question with one Gohen Marak (P. W. 10). As regards the alleged physical incapacity of the appellant Ranen the learned Deputy Commissioner has stated that there was not the slightest visible sign of it, not even a limp. P. W. 10 has stated that he was with Ranen one night but it was a Thursday night. Mr. Gupta contends that the learned Deputy Commissioner is in error when he stated that the occurrence took place on a Friday night, it was Thursday night. Be that as it may, the learned Deputy Commissioner points out that according to P. W. 10 he left the house of Ranen at about 9 P. M. and the offence took place after midnight. Nothing has been brought out in the evidence of the prosecution witnesses in order to discredit them. We think Ranen too has been properly convicted.

6. The result is that we confirm the convictions and substantive sentences of imprisonment as passed by the learned Deputy Commissioner upon the appellants. We have on many occasions observed that where long terms of imprisonment are given to convicts, it is not desirable that in addition to imprisonment a sentence of fine should be passed upon them, for the sentence of fine will be a burden upon the family of the convicts and not upon the convicts themselves. Accordingly, while confirming the convictions and substantive sentences of imprisonment of five years u/s 395, I. P. C. passed on each of the appellants, we set aside the sentences of fine and also the sentences in default. With this modification, the appeal is dismissed.

Deka, J.

7. I agree.