
(1990) 11 AHC CK 0008
In the Allahabad High Court
Case No : Criminal Revision No. 1036 of 1985

Smt. Ram Kali and Another	Vs	APPELLANT
State of U.P. and Another		RESPONDENT

Date of Decision : 27-11-1990

Acts Referred:

Penal Code, 1860 (IPC) — Section 323, 324, 504

Citation : (1991) 15 ACR 86

Hon'ble Judges : G.D. Dube, J

Bench : Single Bench

Advocate : B.S. Verma, A.P. Srivastava, K.K. Srivastava and P.N. Lal, for the Appellant; J.S. Tomar, for the Respondent

Judgement

G.D. Dube, J.—This revision has been preferred against the judgment and order of Second Additional Sessions Judge, Rampur rejecting the appeal preferred by the Petitioners challenging the order of the Magistrate Court No. 6, Rampur convicting the Petitioners - revisionists to various terms of imprisonment. The appellate court had however, modified the order of sentence. Appellant Ram Lal was fined to Rs. 200/- u/s 324, IPC and Rs. 50/- u/s 504, IPC in default of payment of fine he was to under go two months R.I. and 10 days R.I. respectively. Ramkali was sentenced to a fine of Rs. 100/- u/s 323 and Rs. 50/- u/s 504, IPC and in default of payment of fins R.I. for one month and 10 days respectively. Out of this realised amount from the accused-revisionists an amount of Rs. 300/- was ordered to be paid to complainant Bhoop Dei.

2. The fact of this case are very brief. It has been alleged that both the parties are closely related and resided in the same house Smt. Ram Kali is the wife of Ram Lal revisionist. It is alleged that the accused persons wanted to take forcible possession over the house allegedly belonging to both the parties. At about 8 A.M. on 27-8-1984 Smt. Bhoop Dei PW 1 had gone to the field. On her return she found Kara Kali cooking food on her (complainants) Chulha. On protest the two accused abused and assaulted with the tongs (Chimta) and knife. Ram Lal

was possessing knife and revisionist Ram Kali was possessing Chimta. On alarm witnesses had arrived and intervened. FIR was lodged at the police station. Complainant was examined by a doctor who had noticed two incised wound, one abrasion and one multiple linear abrasion on the body. The prosecution had examined Bhoop dei PW 1, Chheda Lal PW 3 and Dr. Narendra Pal Singh in support of its case. The accused had pleaded not guilty. They had examined Devendra Singh, Jiya Lal and Devidas. The two courts below had accepted the prosecution version and passed the impugned order.

3. It has been urged by the learned Counsel for the revisionist that the finding of the lower court are quite perverse and no finding could have been arrived at on the evidence on record. It was firstly contended that the injuries were superficial and appears to be fabricated. The incised wound could not be caused by a knife. Consequently it was urged that from the evidence of the Bhoop dei it transpires that some letter for examination of injuries was prepared by the police. This letter has not been produced. The general diary entry following the registration of the case in the police station was also not proved. This would have established that Smt. Bhoopder had injuries on her person.

4. I have heard learned A.G.A. also.

5. The two contentions of learned Counsel for the revisionists relate to appreciation of evidence. The lower court had reduced the sentence to a fine. The offence is of a petty nature. Since both the parties belong to the same family, It appears to be a consequence of family dispute.

6. The revisional court should not interfere in such matters where the two courts of facts have found the offence established against the two revisionists. The two courts have not found the injuries on the person of Smt. Bhoop dei fabricated. It has been urged that it was not possible that from a knife the two incised wounds could be caused. This is not correct. At the time of quarrel, the victim would not have been static like a log of wood. In the course of movement in order to save from the blows, the victim would have been moving. If in such a state the knife blows are attempted, then it may cause superficial injuries. It is not probable that in a non-cognizable case the police would have prepared a memo to doctor for examination of the victim. The case of the prosecution cannot be thrown out on a stray sentence occurring in the cross-examination of an illiterate lady witness that the police had prepared memo for examination of injuries.

7. The two courts below have discussed the evidence in quite detail. I do not find any error in their appreciation of evidence. The lower court has taken a very lenient view in the matter of sentence.

8. It has been argued in the end that the conviction of revisionist Ram Lal should not entail losing of his service. It would be for the employer to consider as to whether in such family disputes which occur generally to families, he would be inclined to remove revisionist No. 2 from his services. No other observation need be made in this case.

9. No other point has been pressed.
10. The revision fails and is dismissed.