
(2011) 08 RAJ CK 0080

In the Rajasthan High Court

Case No : Criminal Revision Petition No. 350 of 2009

Smt. Sugani and Others

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 09-08-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 397, 401
Penal Code, 1860 (IPC) — Section 149, 307

Citation : (2011) 08 RAJ CK 0080

Hon'ble Judges : Gopal Krishan Vyas, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Gopal Krishan Vyas, J.—In this criminal revision petition filed u/s 397/401, Code of Criminal Procedure, the Petitioners are challenging order dated 16.02.2009 passed by Addl. District & Sessions Judge (Fast Track), Balotra in Sessions Case No. 21/2008 (38/2008), whereby, the trial Court framed charges against the accused Petitioners u/s 307, read with Section 149, I.P.C.

2. In this revision petition, the main argument of learned Counsel for the Petitioners is that No. offence u/s 307, I.P.C. is made out but the learned trial Court grossly erred in framing charge for offence u/s 307, read with Section 149, I.P.C. Learned Counsel for the Petitioners vehemently argued that nature of injuries were to be taken into consideration for the purpose of framing the charge but the learned trial Court completely ignored the nature of injuries received by Deva Ram s/o Bhagwana Ram, Kishna Ram s/o Virdha Ram, which were on non-vital parts of the body and all the injuries received by the above two persons are on legs and hands and caused by blunt weapon. Further, as per the doctors, it cannot be said that these injuries were dangerous to life in any manner, therefore, it is prayed that order of framing charge may be quashed.

3. Learned Counsel for the Petitioners relied upon judgment of this Court in the case of Virendra Singh and Anr. v. State of Rajasthan and Anr., reported in 2008

(1) RJT 386.

4. Per contra, learned Public Prosecutor as well as learned Counsel for the complainant submit that in the revision petition the Petitioners intelligently did not disclose the fact that in all five persons received injuries and while referring only to the injuries of Deva Ram and Kishna Ram obtained stay from this Court upon the further proceedings. It is also pointed out that in all five persons were injured in the incident, viz., Deva Ram, Kishna Ram, Goga Ram, Sanwata Ram and Smt. Soni Devi and, as per the injury report Kishna Ram received 5 injuries, Deva Ram received 4 injuries, Goga Ram received 4 injuries out of which one injury was upon the right parietal region of his head and Sanwata Ram and Smt. Soni received 5 injuries each. It is further submitted that Deva Ram and Kishna Ram also received injuries of fracture, therefore, for the purpose of framing charge only injuries are not to be taken into consideration but other facts are also required to be taken into consideration for the purpose of framing charge.

5. Both learned Public Prosecutor and learned Counsel for the complainant invited my attention towards various judgments of this Court and Hon''ble Supreme Court reported in 2001 Cri.L.R. (SC) 342, Om Wati (Smt.) and Anr. v. State, through Delhi Administration and Ors.; 1983 Cri.L.R. (SC) 151 State of Maharashtra v. Balram Bama Patil and Ors.; 1995 Cri.L.R. (Raj.) 547 Kishan Singh v. State of Rajasthan; 2000 Cr.L.R. (Raj.) 390 Keshar Singh and Anr. v. State of Rajasthan; and, 2002 (1) Cr.L.R. (Raj.) 207, Shahid Khan v. State of Rajasthan and Ors. It is submitted that as per above judgments, only the medical evidence, parcha-bayan and statements of the injured recorded during investigation were considered and it is obvious that right from the initial stage there was intention to kill the injured, therefore, since the Petitioners entered in the residential premises of the complainant party and assaulted them and as a consequence injuries were received which were serious in nature including fractures, therefore, learned trial Court did not commit any wrong while framing charge u/s 307, I.P.C., in the alternative Section 307/149, I.P.C. In this view of the matter, this revision petition deserves to be dismissed.

6. After hearing learned Counsel for the parties, I have perused the entire record of the case including the statements of the injured more specifically statement of Virdha Ram, I am satisfied that there was intention to commit murder, therefore, judgment cited by learned Counsel for the Petitioners is not applicable to the present facts of the case. After going through the various judgments of this Court as well as Supreme Court, I am in full agreement with the submission of learned Public Prosecutor and learned Counsel for the complainant that at the stage of framing charge not only injuries are to be taken into consideration but other facts are also required to be taken into consideration for the purpose of framing charge. It is not necessary that injured persons must have received grievous injuries on vital parts of the body for framing charge u/s 307, I.P.C. but, at the stage of framing charge, medical evidence and other evidence may also be required to be considered at the time of framing charge. In this case, there is

sufficient evidence on record for the purpose of framing charge u/s 307, I.P.C., in the alternative Section 307/149, I.P.C. In this view of the matter, I see No. reason to interfere in the impugned order.

7. Hence, this criminal revision petition is dismissed.