
(2010) 08 SHI CK 0205
In the High Court Of Himachal Pradesh

State of H.P.

APPELLANT

Vs

Rattan Lal @ Bhura Lal

RESPONDENT

Date of Decision : 17-08-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313, 378(3)
Penal Code, 1860 (IPC) — Section 326

Citation : (2010) 08 SHI CK 0205

Hon'ble Judges : R.B. Misra, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.B. Misra, J.—The present criminal appeal has come up for consideration after leave to appeal has been granted, u/s 378(3) Cr.P.C., in reference to the impugned judgment, dated 12.7.1996, passed by the learned Judicial Magistrate Ist Class, Bilaspur, H.P., in Case No. 170/2 of 95/93, acquitting the respondent-accused for the alleged offence, under Sections 326 IPC.

2. The prosecution story is that on 28.8.1993 at about 4.00 p.m. at village Banaikghat, complainant Raj Kumar found accused Rattan Lal selling liquor in his shop. The complainant resisted the sale of liquor upon which the accused hit the complainant with one axe thereby complainant sustained injuries on his person. The matter was reported to the police and FIR was got registered. The complainant was got medically examined by the police. During investigation police took into possession the blood stained clothes of complainant and spot map was prepared. After completion of investigation, challan was presented in the Court. The accused was charged for the alleged offence u/s 326 IPC and the case was tried.

3. In order to prove its case, the prosecution examined as many as 7 witnesses in support of its case, whereas in his statement u/s 313 Cr.P.C., the accused has denied the prosecution case.

4. PW1 Dr. J. Goswami has medically examined the injured Raj Kumar and noticed the following injuries:

1. Cut injury right ante-cubital fossa one inch long half inch wide in centre and half inch deep tendons exposed.

2. Cut injury one inch long ? inch deep and ? inch wide. One inch medial to previous injury bleeding plus.

5. PW2 Constable Prem Lal was associated in the investigation. PW4 Raj Kumar complainant has deposed that on the relevant day, the accused was selling country liquor in his "Khokha" and on asking to stop the said sale, the accused took out one axe and hit him on his right arm with the said axe. The matter was reported to the police and clothes were taken into possession.

6. PW5 Lekh Ram has deposed that he had seen quarrel between the accused and the complainant. PW6 Ranjit Singh, the independent witness, has deposed that the accused was selling liquor in his "Khokha". Accused was stopped by the complainant. There upon, the accused had hit the complainant with an axe.

7. PW7 Pritam Chand Patial, Investigating Officer, has deposed that he visited the spot and prepared the site plan. He also took into possession the blood stained shirt Ext. P1 and handkerchief Ext. P2.

8. On scrutiny of the prosecution witnesses, we noticed that PW5 Lekh Ram and PW6 Ranjit Singh are the two independent witnesses. PW5 did not state anything against the accused. PW6 cannot be said to be trustworthy as major and material contradictions are being noticed in his statement with respect to his previous statement Ext. DX recorded by the police during investigation. As per testimony of PW6, 3-4 persons were sitting in the "Khokha" at the relevant time, whereas complainant has stated that nobody was sitting in the "Khokha". PW6 has further stated that accused had hit the complainant with "Kulhari" from inside the "Khokha", whereas the complainant has categorically stated that the occurrence took place outside the "Khokha". PW6 has also stated that at the relevant time, the complainant was wearing pant and shirt, whereas the complainant has stated that he was wearing night suit. Taking into consideration the said contradictions, it appears that PW6 was not present on the spot or he has deliberately stated wrong facts.

9. On analysis of the prosecution evidence, contradictions in the statements of the witnesses and material on record, the learned trial Court has rightly found that the prosecution case is not reliable and in our considered view also, the prosecution has miserably failed to prove its case beyond any reasonable doubt and to bring home guilt to the accused.

10. In view of the aforesaid facts and circumstances, we are of the considered view that there is no scope for interfering with the impugned judgment of the trial court and accordingly, the present criminal appeal being devoid of any merit is dismissed.