

SUPREME COURT OF INDIA

Ram Pujan

Vs

State of U.P.

Crl.A.No.107 of 1973

(V. R. Krishna Iyer, P. Jagmohan Reddy, H. R. Khanna JJ)

25.07.1973

JUDGMENT

KHANNA, J. -

1. The four appellants Ram Pujan, Raj Kishore, Rajendra and Ram Brikchh and three others Avadh Kishore, Dukhi and Balram were convicted by the Temporary Sessions Judge, Basti under Sections 326 read with 149 and 323 read with 149 Indian Penal Code and were sentenced to undergo rigorous imprisonment for a period of four years on the former count and three months on the latter count. Rajendra and Raj Kishore were also convicted under Section 452 Indian Penal Code and were sentenced to undergo rigorous imprisonment for a period of two years. Besides that the four appellants were convicted under Section 148 Indian Penal Code and were sentenced to undergo rigorous imprisonment for a period of one year each. All the sentences were ordered to run concurrently. On appeal the Allahabad High Court acquitted Avadh Kishore, Dukhi and Balram. The conviction of the appellants was altered to that under Section 326 read with Section 34 and Section 323 read with Section 34, Indian Penal Code and each of them was sentenced to undergo rigorous imprisonment for a period of two years on the former count and three months on the latter count. The conviction and sentence of Raj Kishore and Rajendra appellants for the offence under Section 452, Indian Penal Code were maintained. The four appellants thereafter camp up in appeal to this Court by special leave. The leave was, however, restricted to the question of sentence only.

2. The appellants and Ram Samujh and Ram Sewak P.Ws. are closely related being descendants of one Chinhu. The relations between Ram, Samujh P.W. and Ram Pujan appellant were strained because of a dispute between them before the consolidation authorities. A partition suit was also pending between them. Ram Pujan lost the case in consolidation proceedings and thereupon he held out a threat to Ram Samujh.

3. On August 30, 1967 at about 4 or 5 p.m., it is stated, the seven accused went to the house of Ram Samujh in village Aunra Dand. Ram Pujan appellant was at that time armed with a spear, while the other three appellants were armed with swords. The remaining three accused were armed with lathis. At the instigation of Ram Pujan, it is stated, the other three appellants assaulted Ram Samujh. Ram Samujh ran inside his house, but he was followed by Rajendra and Raj Kishore and was assaulted there also with their swords. Ram Samujh was thereafter dragged outside the house. On alarm being raised by him, Ram Sewak came there but he too was assaulted by the appellants. Ram Sewak caused injury in self-defence to Ram Brikchh. Report about the occurrence was lodged on the following morning by Ram Samujh at police station Dhanghata at a distance of 8 miles from the

place of occurrence.

4. Ram Sewak was found on examination by Dr. S. C. Tekriwal to have five incised wounds on his person. Two of the injuries were on the left palm. The remaining three injuries were on the left ring finger, left wrist joint and the right forearm. The two injuries on the left palm were found to be grievous. Ram Samujh had four incised wounds besides a bruise. The incised wounds of Ram Samujh were on the forearm, right index finger, right middle finger and left thumb. The injury on the forearm was found to be grievous. Ram Brikchh appellant was found on examination by Dr. L. P. Panday to have one punctured wound on the front surface of the middle of his chest. The injury was simple in nature.

5. The appellants denied the prosecution allegations. The trial court and the High Court accepted the case against the appellants and convicted and sentenced them as above.

6. The only question with which we are concerned, as mentioned earlier, is about the sentence. In this respect we find that an application for compromise behalf of the injured prosecution witnesses and the appellants was filed before the High Court. It was stated in the application that the appellants and the injured persons, who belong to one family, had amicably settled their dispute and wanted to live in peace. The High Court thereupon referred the matter to the trial court for verification of the compromise. After the compromise was got verified, the High Court passed an order stating that as the offence under Section 326, Indian Penal Code was non-compoundable, permission to compound the offence could not be granted. The High Court all the same reduced the sentence for the offence under Section 326 read with Section 34, Indian, Penal Code from four years to two years.

7. The appellants during the pendency of the appeal were not released on bail and are stated to have already undergone a sentence of rigorous imprisonment for a period of more than four months. As the parties who belong to one family have settled their dispute, it is, in our opinion, not necessary to keep the appellants in jail for a longer period. The major offence for which the appellants have been convicted is no doubt non-compoundable, but the fact of compromise can be taken into account in determining the quantum of sentence. It would, in our opinion, meet the ends of justice if the sentence of imprisonment awarded to the appellants if reduced to the period already undergone provided each of the appellants pays a fine of Rs. 1,500 in addition to the period of imprisonment already undergone for the offence under section 326 read with Section 34, Indian Penal Code. In default of payment of fine, each of the appellants shall undergo rigorous imprisonment for a total period of one year for the offence under Section 326 with Section 34, Indian Penal Code. Our of the fine, if realised, Rs. 2,000 should be paid to Ram Sewak and Rs. 2,000 to Ram Samujh as compensation. We order accordingly.

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