

Hansa

Vs

State of Punjab

Criminal Appeal No. 100 of 1977

(N. L. Untwalia, Syed M. Fazal Ali JJ)

22.07.1977

JUDGMENT

UNTWALIA, J. –

1. Hansa, the sole appellant in this appeal by special leave, special leave having been granted only on the question of sentence, was convicted by the trial Judge under Section 325 of the Penal Code for having voluntarily caused grievous hurt with a stick to Mst. Rao. He was also convicted under Section 323 of the Penal Code for having voluntarily caused hurt to PW 3 Melu Ram. On Appeal the High Court set aside his conviction under Section 323, but maintained that under Section 325. The sentence under Section 325 was one year's rigorous imprisonment.
2. The occurrence took place as a result of sudden quarrel between some children and others of the family of Hansa and Mst. Rao in regard to throwing of some bricks of brick-bats. In the course of this sudden occurrence Hansa is stated to have accused the injury on the head of Mst. Rao. Learned Counsel for the appellant has pressed for our consideration the application of provisions of Section 4 of the Probation of Offenders Act, 1958 to his case. We are inclined to accept this stand taken on behalf of the appellant as justifiable and tenable in law on the special facts of this case. The appellant was found guilty of having committed the offence of causing grievous hurt punishable under Section 325 of the Penal Code. The maximum sentence provided therein is seven years.
3. Having regard to the circumstances of the case and the nature of the offences also the character of the offender, we think it expedient to release the appellant on probation of good conduct for a period of one year from today. His sentence of imprisonment shall remain suspended during this period. He is already on bail and shall continue to be so, provided he executes a bond to the satisfaction of the Sessions Judge, Hoshiarpur, the trial Court, within two weeks from today with or without sureties as that court may direct, to appear and receive sentence when called upon during the said period of one year. In the meantime, the appellant must keep peace and be of good behaviour. The sentence of imprisonment shall stand remitted if he does so. The appeal is accordingly disposed of in the manner indicated above.

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