

Jagdish Prashad

Vs

State

Criminal Appeal No. 66 of 1975

(Syed M. Fazal Ali, A. D. Koshal JJ)

08.02.1979

JUDGMENT

FAZAL ALI, J. –

1. The appellant has been convicted under Section 324, I.P.C. to one year's rigorous imprisonment as modified by the High Court. It appears that on the date of occurrence namely, August 25, 1971, Bishan the deceased was assaulted by a knife and the appellant was seen running away by a crowd collected, and so the members of the crowd including the members of the police arrested him and snatched knife from his hand which contained no blood-stains. The High Court appears to have relied on the following three circumstances -

- (i) that the appellant was seen by the three witness with a chhuri in his hand;
- (ii) that he was waving the chhuri at that time and the witnesses warded off some of the blows with the dandas which they had;
- (iii) that the appellant was caught and taken to the police station.

2. Even if we take these circumstances at their face value they do not exclude the possibility of guilt of the accused. There was no eyewitness to prove that the appellant had inflicted any knife blow on Bishan, and in the absence of such evidence coupled with the fact that the knife which was snatched from the appellant did not contain any blood-stains, it cannot be held that the circumstances proved in the case are incompatible with the innocence of the accused. It is possible that the accused may have been coming from some other locality with a knife and since he was chased by some persons he waved the knife in order to protect him or to scare away the crowd. We have gone through the judgment of the High Court and we find that there is no legal evidence against the appellant on the basis of which his conviction can be sustained. It is true that Bishan had died on the 30th, but there is no evidence to connect his death with the assault of 25th, because admittedly Bishan was discharged from the hospital on 26th, that is, the next day. In these circumstances, therefore, we are satisfied that the High Court was not at all justified in convicting the appellant without there being any legal evidence to support his conviction. For these reasons the appeal is allowed, the conviction and sentence imposed on the appellant are set aside and he is acquitted of the charge. The appellant will now be released of his bail bonds.

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