

SUPREME COURT OF INDIA

Pritam Chauhan

Vs.

State (Govt.of NCT Delhi)

CrI.A.No.1272 of 2014

(Sudhansu Jyoti Mukhopadhaya and Ranjan Gogoi JJ.)

01.07.2014

JUDGMENT

RANJAN GOGOI, J.

1. Leave granted.
2. The appellant had been convicted under Section 307 IPC by the learned Additional Sessions Judge, New Delhi in Sessions Case No.28/2000 and sentenced to undergo rigorous imprisonment for three years alongwith fine. In appeal, the High Court of Delhi had altered the conviction of the appellant to one under Section 326 IPC with consequential modification of the sentence to rigorous imprisonment for a period of two years. The High Court, further directed the appellant to pay a sum of Rs. 50,000/- as compensation to the victim, Sunder Singh, under the provisions of Section 357 of the Code of Criminal Procedure. Aggrieved by the aforesaid conviction and the sentence imposed, the appellant has filed the present appeal.
3. We have heard Mr. Mohd. Hanif Rashid, learned counsel for the appellant and Mr. Mohan Jain, learned Addl. Solicitor General for the State.
4. The culpability of the appellant for the criminal acts attributed to him need not be gone into in the present appeal inasmuch as the arguments on behalf of the appellant had centred around the quantum of sentence to be imposed and, in fact, the notice

issued by this Court on 06.12.2013 was on the limited point of sentence.

5. Notwithstanding the limited notice issued i.e. on the question of sentence which would have required the Court to proceed on the basis that the conviction of the appellant under Section 326 IPC need not be disturbed, we have considered the arguments made on behalf of the appellant on the question as to whether the facts of the case required alteration of the conviction of the appellant to one under Section 324 IPC as the issue of a lesser sentence was sought to be canvassed on that basis also.

6. Whether the culpability of the accused would fall under Section 324 or 326 of the IPC would depend on as to whether the injuries suffered by the victim amount to ~simple hurt or ~grievous hurt as defined by the relevant provision of the Penal Code. The evidence of PW-2, Dr. Naresh Chander Gaur, the Orthopaedic Surgeon who examined the victim on the day of the incident indicates that the victim had suffered two wounds at the back of his left forearm 9 x 5 cm. over the middle 1/3rd and 6 x 4 cm. distal 1/3rd left forearm with deep extensive damage to most of muscles and the back of left forearm. Apart from the above, there was another wound 4 x 1 cm. on the palm of the right hand. According to PW-2 the victim had undergone surgery on 19.5.1999 in the course of which both wounds on left forearm were explored and all the muscles were found to be damaged which were repaired. Furthermore, according to PW-2 the digital nerve of the right index finger was cut which was also repaired. PW-2 has specifically stated that the above injuries are grievous in nature and were caused by a sharp edged weapon (knife) which fact is borne out from the testimony of the victim himself, examined as PW-3, duly corroborated by the eyewitnesses PW-4 Babli and PW-5 Umesh. Over and above, there is the evidence of PW-1, Dr. Sudha Kanojia, who had first examined the victim Sunder Singh, to the effect that the injuries sustained by the victim were not simple injuries. In view of the above evidence on record it is difficult to hold that the injuries sustained by the victim due to the assault committed by the accused does not fall under 8th clause of Section 320 IPC, which, inter alia, defines ~grievous hurt as any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits. The conviction of the appellant under Section 326 IPC, therefore, will not require any correction.

7. The punishment contemplated under Section 326 IPC is imprisonment for life or with imprisonment of either description for a term which may extend to ten years,

along with fine. In a recent pronouncement of this Court in Gopal Singh vs. State of Uttarakhand[1] it has been held that the principle of just punishment is the bedrock of sentencing in respect of a criminal offence. The wide discretion that is vested in the Courts in matters of sentencing must be exercised on rational parameters in the light of the totality of the facts of any given case. The doctrine of proportionality has to be invoked in the context of the facts in which the crime had been committed, the antecedents of the accused, the age of the accused and such other relevant factors. In the present case, considering that the accused-appellant had gone to his house to fetch a knife and, thereafter, had given repeated blows to the victim resulting in multiple grievous injuries, we are of the view that the sentence of two years rigorous imprisonment is just and adequate and will not require any modification. The submission of the learned counsel for the appellant that the appellant is willing to pay higher compensation under Section 357 IPC also cannot be accepted inasmuch as the provisions of Section 357 operate independently of the specific penal provisions of the Code under which the court is required to sentence an offender.

8. In view of the foregoing discussion, we do not find any merit in this appeal. It is accordingly dismissed. The accused shall serve out the remaining part of the sentence imposed by the High Court and affirmed by the present order.

[1] (2013) 7 SCC 545