
(2013) 2 WLN 380

Rajasthan High Court (Jaipur Bench)

Case No: Criminal Miscellaneous (SOS) Application No. 176 of 2013 in Criminal Appeal No. 820 of 2012

Kaluram and Another

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision: April 1, 2013

Acts Referred:

Penal Code, 1860 (IPC) " Section 302, 34

Citation: (2013) 2 WLN 380

Hon'ble Judges: Nisha Gupta, J; Mohammad Rafiq, J

Bench: Division Bench

Advocate: Ashvin Garg and Mr. Anoop Dhand, for the Appellant; Rekha Madhani, Public Prosecutor, for the Respondent

Judgement

Mohammad Rafiq, J.

This application for suspension of sentence has been preferred by accused appellants Kaluram and Ajay Kumar

who have been convicted for offence under Sec. 302 read with Section 34 of IPC and sentenced to undergo the life imprisonment. Contention of

learned counsel for the appellants is that deceased Amit died due to head injury as per the statement of Dr. H.S. Fagadia (PW1) who has proved

the post mortem report Ex.P-1. The learned counsel for the appellants has taken the Court through the statements of Smt. Rekha (PW3), Pradeep

Kumar (PW4) and Sanjay Soni (PW6) and has also referred to the allegations made in the first information report Ex.-P4 and argued that

allegations have been made against all three accused Kaluram, Ajay Kumar and co-accused Vijay (who is juvenile and is facing trial separately) of

causing single head injury which has proved fatal. Recovery of weapon has been shown only at the instance of accused appellant Ajay Kumar. The

incident took place on account of some altercation between children of two families. Trial Court was persuaded to grant bail to accused appellant

Kaluram pending trial as no recovery was made at his instance. It is also argued that hearing of the appeal is likely to take a long time, therefore,

sentence of the appellants be suspended.

2. Learned Public Prosecutor and the learned counsel for the complainant opposed the bail application.

3. Taking into consideration the facts and circumstances of the case in totality and also that one injury has been assigned to three accused and

recovery of weapon has been shown at the instance of appellant no. 2 Ajay Kumar alone and that accused Kaluram was on bail pending trial, we

are persuaded to suspend the sentence of appellant no. 1 Kaluram. However, application for suspension of sentence filed by appellant no. 2 Ajay

Kumar is dismissed. In the result, the application for suspension of sentence filed by accused appellant no. 1 Kaluram is allowed and it is directed

that the sentence awarded to accused appellant no. 1 Kaluram son of Shri Bhanwar Lal presently confined in District Jail, Sikar shall remain

suspended during the pendency of this appeal provided he furnishes a personal bond in the sum of Rs. 50,000/- together with two sureties in the

sum of Rs. 25,000/- each to the satisfaction of the trial Court for his appearance before this Court on 02.05.2013 and all dates of hearing unless

otherwise directed.