

(2010) 01 KAR CK 0014

Karnataka High Court

Case No: Criminal Appeal No. 2620 of 2006

Sanjay Patak @ Bhuttu, Bijay
Kumar @ Joy Kumar and Santosh
@ Santosh Bhumij

APPELLANT

Vs

The State of Karnataka

RESPONDENT

Date of Decision: Jan. 8, 2010

Acts Referred:

- Penal Code, 1860 (IPC) - Section 324, 395, 397

Hon'ble Judges: Huluvadi G. Ramesh, J

Bench: Single Bench

Advocate: B.S. Prasad, for the Appellant; A.V. Ramakrishna, HCGP, for the Respondent

Final Decision: Dismissed

Judgement

Huluvadi G. Ramesh, J.

This appeal is against the order of conviction and sentence passed by the Fast Track Court, Chamarajanagar in S.C. No. 414/2004 (old No. S.C.59/2003).

2. The case of the prosecution is that accused Nos. 1 to 6 were appointed as Security Guards in M/s, Lion Security Services and the Head Office is situated at Chamarajpet, Bangalore, The accused were directed to work in the office of the KPTCL at Gundlupet. One Kumaraswamy was working as Field Officer in M/s. Lion Security Services in its branch at Chamarajanagar. During the month of September 2002 the accused 1, 2, 4 and 6 were directed to work in KPTCL office at Gundlupet.

3. According to the accused, alleging nonpayment of arrears of salary, they snatched the amount from P.W. 1 and assaulted him. The accused have been falsely implicated on this ground.

4. However, according to the prosecution, P.W. 2-Sureshbabu wording as Manager of the Branch Office at Mysore had given Rs. 40,000/- to P.W. 1 for the purpose of

distribution of salary to the security guards and P.W. 1 went to KFTCL office at Gundiupet along with one Raghavendra C.W.5 on 25-6-2003 for the purpose of distribution of salary. On that day, around 12.30p.m., while the amount was being distributed, accused Nos. 2, 5 and 6 forcibly snatched the bag containing amount of Rs. 25,000/- from P.W. 1 and later accused Nos. 3 and 5 held P.W. 1; accused 1 and 4 tied the hands and legs of P.W. 1 with aluminum wires; accused No. 5 inserted cloth into his mouth and later accused Nos. 2 and 6 assaulted him with deadly weapons like iron rod, which caused grievous injuries and also an attempt was made for commission, of murder of P.W. 1.

5. The police after investigation filed charge-sheet on the complaint filed by P.W. 1. During the trial, prosecution examined in all 17. witnesses and got marked as many as 54 documents and M.Os. 1 to 13. The Trial Court having recorded 313 statement and having heard the arguments formed an opinion that the offence punishable u/s 395 of IPC is punishable either with imprisonment for life or with imprisonment for a period which may extend upto 10 years. So far as offence punishable u/s 395 read with Section 397 of IPC is concerned the minimum sentence shall be for a period of 7 years. Therefore, ordered that the accused 2, 5 and 5 are sentenced to undergo Rigorous imprisonment for a period of 7 years and to pay a fine of Rs. 2,000/- each for offence punishable. u/s 395 of IPC and also ordered accused Nos. 2, 5 and 6 to undergo Rigorous imprisonment for a period of 7 years for the offence punishable u/s 395 read with Section 397 of IPC and in default of payment of fine of Rs. 2,000/-, they shall undergo Rigorous imprisonment for a period of one year. Further ordered that substantive sentence shall run concurrently and also ordered that 50% of the compensation amount be paid to the complainant-P.W. 1 Kumaraswamy. Benefit of set off for the period of detention in judicial custody from 28-9-2002 till the date of the order was also given to Accused Nos. 2, 5 and 6. The appellants are accused 2, 5 and 6 whereas accused 1, 3 and 5 are absconding against whom, a split up charge-sheet is filed.

6. Heard the learned Counsel for the appellants-accused and the learned Government Pleader.

7. It is the argument of the learned Counsel for the appellants that the appellants were working as security guards under the M/s Lion Security Services. For non-payment of salary, the accused forcibly took the amount from P.W. 1 for which, they have been falsely implicated and it may not be a case for either Section 395 nor 397 and at the most, it may fall u/s 324 of IPC for having assaulted P.W. 1.

8. On perusal of the material evidence on record; looking into the evidence of the complainant and other witnesses P.W. 2 and P.W. 3 and also other material witnesses, the Trial Court convicted and sentenced the accused. The argument of the learned Counsel for the appellants in this context is that P.W. 10 has given evidence supporting the defence of the accused wherein he has stated that it is only a quarrel for non-payment of salary.

9. Of course, P.W. 10 has deposed that there was quarrel between P.W. 1 and the accused. However, P.W. 1 was found injured near KPTCL premises and this P.W. 10 pleads his ignorance as to whether P.W. 1 sustained injuries or not. It appears. By the time, P.W. 10 came to the spot, the incident shown to have taken place for which he is not an eye-witness. The appellants' counsel cannot say that it is only a quarrel for non-payment of salary and the appellants have been falsely implicated in this case, rather there is corroborating version of other witnesses who had witnessed the incident, although some of them; have turned hostile wherein it is seen that P.W. 1 sustained 2 to 3 grievous injuries and 2 simple injuries and he was hospitalised and treated there. What is being proved beyond reasonable doubt is that the amount brought by P.W. 1 for disbursement of salary for the Security Personnel is being snatched away. Might be that there was quarrel, but the fact remains that, the accused could not have taken the law into their hands and their grievance could have been agitated before the Competent Authority, if at all there is any non-payment of salary. In the case on hand, having regard to the facts and circumstances of the case and also looking into the evidence on record, it is seen, that beyond reasonable doubt, the accused persons have snatched the amount from the complainant-P.W. 1, which was brought for disbursement of salary to the Security Personnel and also assaulted him. As such, the accused have been rightly convicted. It is seen as per the report sent by the Superintendent of Jail, Central Jail, Mysore that the accused was released on 21-11-2008 after servicing sentence.

10. As the accused were sentenced for a minimum sentence, the order of conviction and sentence does not call for interference. Accordingly, the appeal is dismissed.