

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1931 OF 2009

Champa Lal Dhakar

.. Appellant

Versus

Naval Singh Rajput & Ors.

.. Respondents

J U D G M E N T

M. R. Shah, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court of Madhya Pradesh dated 1.2.2008 in Criminal Revision No. 830 of 2007, by which the High Court has partly allowed the said Revision Application preferred by the respondents herein – original Accused and has set aside the order passed by the learned trial Court framing the charge under Section 307 of the IPC, the original Complainant has preferred the present appeal.

2. That the Appellant herein – original Complainant lodged a FIR against the original Accused for the offences under Sections 147, 148, 451, 325/149, 307/149, 294/149 and 506/149 of the IPC. That the learned Additional Sessions Judge, Sironj, District Vidisha in S.T. No. 197 of 2005 framed the charge against the original Accused for the offences punishable under Sections 147, 148, 451, 325/149, 307/149, 294/149 and 506/149 of the IPC. That feeling aggrieved and dissatisfied with the order passed by the Additional Sessions Judge, Sironj, District Vidisha framing the charge against the original Accused for the aforesaid offences, the accused preferred the Revision Application before the High Court, being Criminal Revision Application No. 830 of 2007. Having noticed the injuries sustained by the complainant and as it was found that no case is made out for the offence punishable under Section 307 of the IPC, the High Court by the impugned judgment and order has partly allowed the said Revision Application and has quashed and set aside the order passed by the learned Additional Sessions Judge with regard to framing of the charge under Section 307 of the IPC and has directed the learned trial Court to reconsider its order with regard to framing of the charge and take further steps in accordance with law. By

passing the impugned order, the High Court was of the opinion that, in the facts and circumstances of the case and considering the material on record, more particularly, the injuries sustained by the complainant, a charge under Section 325 of the IPC ought to have been framed.

2.1 Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court in quashing and setting aside the order passed by the learned trial Court with regard to framing of the charge under Section 307 of the IPC, the original Complainant has preferred the present Criminal Appeal.

3. Learned counsel appearing on behalf of the original Complainant has vehemently submitted that, in the facts and circumstances of the case, the High Court has committed a manifest error in quashing and setting aside the order passed by the learned trial Court framing charge under Section 307 of the IPC.

3.1 It is vehemently submitted by the learned counsel appearing on behalf of the Appellant herein—original Complainant that, in fact, approximately 17 to 18 persons attacked and beaten the complainant with an intention to commit murder and, therefore, the learned trial Court rightly framed the charge against the

accused persons for the offences under Section 307 of the IPC. It is submitted that, therefore, when the learned trial Court exercised the discretion/powers judiciously, the High Court has committed an error in quashing and setting aside the order passed by the learned trial Court in exercise of its Revisional Jurisdiction.

4. Learned counsel appearing on behalf of the original Accused has supported the order passed by the trial Court.

5. Heard learned counsel appearing on behalf of the parties at length. We have also perused and considered the material on record, more particularly, the injuries sustained by the original Complainant. Considering the material/evidence on record, we have noticed that the complainant sustained injuries on the nose and fracture of the nasal bone was found. That the case may fall within the grievous hurt, but it cannot be said that even, *prima facie*, a case is made out for the offence under Section 307 of the IPC. Section 307 of the IPC reads as under:

“307. Attempt to murder.—Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine;

and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned.”

6. Considering the material/evidence on record and the medical certificate and the injuries sustained by the complainant, it cannot be said that the intention of the accused was to cause death of the complainant. Therefore, as rightly observed by the High Court, a charge under Section 325/149 ought to have been framed. Therefore, the High Court has not committed any error in setting aside the order passed by the trial Court insofar as framing the charge under Section 307 of the IPC. We are in complete agreement with the view taken by the High Court.

7. In view of the above and for the reasons stated above, the present Appeal fails and the same deserves to be dismissed and is accordingly dismissed.

.....J.
(D. Y. CHANDRACHUD)

.....J.
(M. R. SHAH)

New Delhi,
January 4, 2019.