

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

: JUDGMENT :

**RAMKUMAR
RAJASTHAN**

Vs.

STATE OF

S.B.CRIMINAL APPEAL NO.193/1988

against the judgment dated 12.04.1988
passed by the Sessions Judge,
Sriganganagar in Sessions Case
No.12/1987 State Vs. Ram Kumar.

Date of Judgment

:

28th October, 2004.

HON'BLE MR.JUSTICE DALIP SINGH

Ms.Kiran Rathore on behalf of
Mr.R.K.Singhal, for the appellant.
Mr.O.P.Boob, Public Prosecutor.

BY THE COURT :

1. This appeal arises out of the judgment dated 12.04.1988 passed by the learned Sessions Judge, Sriganganagar in Sessions Case No.12/1987 State Vs. Ram Kumar whereby the accused-appellant was convicted for the offence under Section 326 I.P.C. and sentenced to three years rigorous imprisonment and to pay a fine of Rs.50/- and for the offence under Section 452 I.P.C. he was sentenced to two years rigorous imprisonment and to pay a fine of Rs.50/-. Being aggrieved by

the aforesaid judgment of the learned Sessions Judge, the accused-appellant preferred this appeal.

2. Brief facts giving rise to this appeal are that on 09.02.1987 at about 7:30 PM the accused Ram Kumar entered the house of Santlal and Kaushlya Devi looking for Santlal. It is alleged that Santlal's sister Permeshwari Devi was married to Ruldu Ram, brother of the accused appellant. It is further alleged by the prosecution that Ruldu Ram was facing trial for the offence under Section 498A and 306 I.P.C. for the death of Permeshwari Devi, sister of Santlal. Accused Ram Kumar maintained that his brother Ruldu Ram has been falsely implicated by Santlal and consequently Ram Kumar wanted to take revenge as Ruldu Ram maintained that Santlal had procured false evidence in the case against him. It is in this background that on 09.02.1987 in the evening, the accused Ram Kuamr came to Ganganagar with the intent to settle scores and entered the house of Santlal. It is further alleged that at that time Santlal was not available in the house and Mst.Kaushlya Devi (PW-7) wife of Santlal who was in the house saw the accused-appellant entering into the house. He inquired of her as to where Santlal was. At that point of time, it is alleged that on not finding Santlal, accused-appellant Ram Kumar had altercation with Kaushlya Devi (PW-7) and in that course Kaushlya Devi received injuries as mentioned in the Injury Report (Exhibit P-14).

3. Learned Sessions Judge before whom the case came up for trial

recorded the evidence and acquitted the accused-appellant of offence under Section 307 I.P.C. but maintained the conviction under Section 326 and 452 I.P.C. and sentenced him as indicated above.

4. Learned counsel for the appellant submitted that in the present case the incident is of February, 1987 i.e., more than 17 years ago and the accused-appellant has after being released on bail by suspension of sentence by this court and also on bail during the trial, has not committed any similar or other offence, therefore, looking to the fact that such a long time has elapsed, the ends of justice would be met if the conviction of accused-appellant is maintained and the sentence is altered to the one already undergone for the offence under Section 326 and 452 I.P.C. Learned Public Prosecutor has opposed the aforesaid plea of the learned counsel for the appellant but in the alternative submitted that in case, the sentence of the accused-appellant is altered to the one already undergone, the victim Mst.Kaushlya Devi (PW-7), wife of Santlal should be suitably compensated.

5. Having considered the rival contentions made at Bar and looking to the facts and circumstances of the case, I am inclined to allow this appeal to the extent that while maintaining the conviction of the accused-appellant for the offence under Sections 326 and 452 I.P.C., as held by the learned Sessions Judge, the sentence of imprisonment of the accused-appellant be altered to the one

already undergone. However, the sentence of the fine is enhanced by Rs.5,000/- in addition to the one awarded by the trial court. The accused-appellant would deposit a sum of Rs.5,000/- as fine and compensation of Rs.5,000/- out of the fine will be paid to the victim Mst.Kaushlya Devi (PW-7). The aforesaid amount be deposited before the learned Sessions Judge within a period of two months from today. In case, the aforesaid amount of fine is not deposited within a period of two months as directed above, the accused-appellant will suffer the sentence as awarded by the learned Sessions Judge in the judgment dated 12.04.1988 in Sessions Case No.12/1987 State Vs. Ram Kumar.

6. The appeal is partly allowed, as indicated above.

(DALIP SINGH),J.

DSSolanki/-