

Narendra Kumar Alias Makiya vs State Of Rajasthan on 19 August, 1987

Equivalent citations: JT1987(4)SC152A, 1988SUPP(1)SCC536A, AIR ONLINE 1987 SC 43, 1988 SCC (SUPP) 536, (1987) 4 JT 152.1, 1988 SCC (CRI) 884, (1987) 4 JT 152(1) (SC), (1987) 4 JT 152 (SC)

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Bench: A.P. Sen, B.C. Ray

ORDER

A.P. Sen, J.

1. Special leave granted.

2. On the last occasion on November 26, 1986, we were informed that the parties had arrived at a settlement and a prayer was made for leave to compound the offence and we accordingly called for a report. The learned Additional Sessions Judge, Kota by his report dated July 30, 1987 has certified that the parties appeared before him and stated that they had entered into a compromise.

3. The offence under Section 307 of the Indian Penal Code, 1860 is not compoundable and therefore we examined the records to satisfy us whether the offence is made out. We find it difficult to sustain the conviction of the appellant under Section 307. Though the appellant assaulted the deceased with a sword, the injuries ascribed to him were on a vital part of the body i.e. neck. The testimony of the doctor shows that the injuries were of a simple nature and were not likely to cause death. That being so, the appellant, could only be convicted under Section 324 of the Indian Penal Code.

4. In view of this, the parties are allowed to compound the offence punishable under Section 324 of the Indian Penal Code on condition that the appellant pays to the complainant PW 1 Shri Chandra a sum of Rs. 3,000 by way of compensation for the injuries suffered by him. This will be in addition to the amount of Rs. 3,000 already deposited by him towards costs.

SPECIAL LEAVE PETITION. (CRL.) NO. 1779 OF 1987

5. Having heard learned Counsel for the parties, we think a sentence of rigorous imprisonment for a period of two years will meet with the ends of justice. Subject to this modification in the sentence, the special leave petition is dismissed.

SPECIAL LEAVE PETITION (CRL.) NO. 1808 OF 1987

6. Taking an overall view of the facts and circumstances and having heard learned Counsel for the parties, we think a sentence of rigorous imprisonment for eighteen months will meet with the ends of justice. Subject to this modification in the sentence, the special leave petition is dismissed.