

Jageshwar Dayal And Ors. vs The State on 29 May, 1952

Equivalent citations: AIR1952ALL933, AIR 1952 ALLAHABAD 933

JUDGMENT

Beg, J.

1. This is a revision filed by Jageshwar Dayal, Kamla Prasad, Kamla Kant and Nathu, who have been sentenced to one year's rigorous imprisonment and Rs. 100/- fine, in default six months' rigorous imprisonment, under Section 332, Penal Code. Nathu has been further sentenced under Section 323, Penal Code, to six months' rigorous imprisonment, the sentences to run concurrently. The case against these applicants was that on 8-9-1949, at about 5 P.M. they beat the Naib Tahsildar Sri Lakshmi Narain, when he was returning after his work from the Tahsil to his house. It is alleged by the prosecution that the Naib Tahsildar Sri Lakshmi Narain had made a report against the patwari Jageshwar Dayal, as a result of which Jageshwar Dayal had been suspended. As a consequence of this report and his suspension Jageshwar Dayal was harbouring ill will against him, and along with the other three accused Kamta Pershad, Kamla Kant and Nathu attacked Lakshmi Narain and caused injuries on him.

Deolok Singh, Qanungo, who was accompanying Sri Lakshmi Narain, raised an alarm and tried to intervene but he was also beaten. The prosecution case was supported by the statement of Lakshmi Narain Naib Tahsildar, who appeared as P.W. 1 and Deolok Singh Qanungo (P.W. 2) who corroborated Lakshmi Narain. Rikhi Nath (P. W. 3), Earn Sanehi (P.W. 4), Puttu Singh (P. W. 5) and Khubi Singh (P.W. 6) were also produced on behalf of the prosecution in support of its case. On the basis of the above evidence, both the Courts below have believed the prosecution story and have convicted the accused applicants, as mentioned above.

2. The learned counsel for the applicants has raised a legal point to the effect that Lakshmi Narain Naib Tahsildar was not discharging any official duty, when he was beaten and so the conviction under Section 332 cannot stand. I am, however, unable to agree with him on this point. Section 332, Penal Code, lays down that "whoever voluntarily causes hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both."

The portion underlined (here italicized) by me in the above section shows that the offence under Section 332 can be committed not only when a person is assaulted while he is discharging public duty but also when he is assaulted in consequence of the discharge of his duty. In this case the Naib Tahsildar had made a report against the patwari in the lawful discharge of his duty. As a

consequence thereof he was beaten by Jageshwar Dayal and others. The facts of the case, therefore, clearly bring the applicants within the purview of Section 332, Penal Code, and they cannot get off by taking this legal plea. Learned counsel has cited Meghraj v. Emperor, 37 Cr. L. J. 375 (Nag.) and Raghubar v. Emperor, A.I.R. 1941 oudh 385.

In none of these cases was the specific question as to the meaning of the words "in consequence of anything done" considered. These cases appear to be cases where a person was alleged to have been assaulted in the actual discharge of his duty. This is not so in the present case. In fact, in the present case the finding of the lower Courts is that the assault was made on the public servant in consequence of something done by him in the lawful discharge of his duty. I am, therefore, of the opinion that the section clearly applies to all the applicants and they have been rightly convicted.

3. The learned counsel for the applicants has further argued that some of the witnesses named in the first information report have not been produced in this case. He further submitted that some of the witnesses produced were not named in the first information report. None of these arguments is, however, sufficient to outweigh the value of the entire prosecution evidence. He has further argued that P. W. 5 could not identify any one in jail and P.W. 6 only identified Kamla Kant. Eliminating, however, the evidence of both these witnesses, there still remains the evidence of Lakshmi Narain, Deolok Singh, Rikhinath and Earn Sanehi, all of whom have been believed by both the Courts below and whose evidence is quite sufficient to sustain conviction. .

Lastly he has argued that Rikhinath should not have been believed, as documentary evidence indicates that he was not present on the scene. The lower Court has given good reasons for believing Rikhinath and I am in agreement with it. I hold that Rikhinath was present and his evidence is worthy of credence. In view of the findings given by me above, I am of opinion that there is no substance in this revision. The sentences passed on the applicants are not severe at all.

4. This revision is accordingly dismissed. The accused are on bail. They shall surrender themselves before the District Magistrate concerned and serve out their sentences.