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GR Case No.- 94 of 2022
In the Court of Judicial Magistrate 19th Court
Calcutta



District : Kolkata

Present : Sri Himadri Kumar Nath
Judicial Magistrate 19th Court,
Calcutta.
J.O Code- WB01214

State

Vs.

Ramesh Kr. Shaw

.....Accused person.

G.R Case No. 94 of 2022

T.R No. 4280 of 2022

Reg No. GRNS-1994 of 2022

CNR No:-WBCS02-145944-2022

Allegation Under Section : 341/323 of the Indian Penal Code

Date of delivery of Judgment : 06.12.2024

J U D G M E N T

The prosecution case is as follows:-

A written complaint was lodged before the Muchipara PS by defacto complainant Ranjit Das on 31.08.2022. The factual matrix of the prosecution case is that on 31.01.2022 at 05.30 hrs the FIR named accused person namely Ramesh Kr. Shaw restrained the defacto complainant and physically assaulted them with fist and blows. As a

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result the complainant receipt injury on his person, treated and discharged from NRS Hospital.

Based on the written complaint Muchipara PS Case No.-20 dated 31.01.2022 u/s- 341/323 of IPC was instituted against the accused person named in the written complaint. The investigation was carried out and charge sheet was submitted against the accused person namely, Ramesh Kr. Shaw for offences punishable u/s- 341/323 of IPC. Thereafter the case was transferred to this Court for disposal.

Sufficient material on the record for plea was there against the charge sheeted accused person for the offences punishable u/s- 341/323 of IPC. Sole accused person pleaded not guilty by saying “Nirdoshi” and claimed to be tried during plea.

To prove the case the prosecution examined the defacto complainant Ranjit Das who was being examined as PW-1 and No other witness is examined on behalf of the prosecution and evidence was closed. The case was fixed for 313 of the accused person. The accused person appeared and his statement under section 313 of Cr. P.C. is recorded following norms. Argument is heard today itself. The defence case as it appears from the trend of cross examination and the statement of the accused u/s 313 Cr. P.C. is the denial of the charge and plea of innocence.

The following person deposed as witnesses :-

PW-1 – Ranjit Das, (Defacto complainant).

No other witness examined in this case.

The following are the exhibits in this case :-

1. Signature of the defacto complainant on the written complaint is marked as **Ext.1**.

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POINTS FOR CONSIDERATION

1. Whether the accused person is guilty of committing physical hurt voluntarily and committed offence U/s-323 IPC ?
2. Whether the accused person guilty of committing criminal restraint and committed offence U/s- 341 IPC ?
3. Has the prosecution been able to prove its case beyond all reasonable doubts against the accused person?
4. Whether the accused person be convicted for the allegations as charged ?

DECISION WITH REASONS

Since the points for determination are interlinked these are taken up together for determination for the sake of convenience.

PW.-1 is the evidence of the defacto complainant namely Ranjit Das. He stated in his evidence that he lodged the complaint against Ramesh Gupta in this case. He identified his signature on the written complaint. He failed to recollect the date and time of the alleged incident. He also failed to recollect the alleged incident.

The PW- 1 i.e. defacto complainant Ranjit Das who lodged the written complaint did not narrate the incident as alleged in the written complaint. Evidence of PW.-1 do not support the prosecution case in factual terms. It can be safely said that either the defacto complainant is not stating the truth although after swearing oath before this Court or else the investigating Officer did not investigate the case in the true spirit of impartial investigation and for which the contradiction with the alleged facts and evidence on record is clearly seen. Thus, in either case the Court have to consider the benefit of doubt in favour of the accused. That in such circumstances, this Court is of the view that adducing of the

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evidence further in this case could not have done any benefit to the prosecution side and so there is no reason to ponder upon the evidence of other witnesses also appears to be of no help to the prosecution case and inter alia in his evidence P.W.1 stated that he failed to recollect the alleged incident. Furthermore, prosecution side did not prefer to claim the said witness as hostile witness. That in such circumstances, the evidence of this case was closed. That the accused person was examined under Section 313 of Cr.P.C. by this Court and he stated individually that he is innocent and also he did not prefer to adduce DW. That in such circumstances, the defence case is totally based upon denial of the allegation and plea of innocence. As such I find that the prosecution has miserably failed to prove the case in substance beyond reasonable doubts. The points for consideration are thus, decided against the prosecution for want of evidence and thus, there is nothing on record to establish the allegations against the accused person in any manner. Thus, none of the allegations under Section 341/323 of I.P.C is proved in the eye of law. The accused person is liable to be acquitted in view of the evidence on record.

Hence, it is,

ORDERED

That the accused person namely Ramesh Kr. Shaw is hereby held not guilty for the offence charged with and he is acquitted u/s 255 (1) of Cr. P.C.

Sureties are discharged from his/their liabilities.

The case is hereby disposed of.

Give note in relevant register accordingly.

D/C by me,

(Sri. Himadri Kumar Nath)
Judicial Magistrate 19th Court
Calcutta

(Sri. Himadri Kumar Nath)
Metropolitan Magistrate 19th Court
Calcutta