

IN THE HIGH COURT OF SIKKIM

Criminal Revision No.12/2000

Date of Decision : 26.5.2000

In Re.

Jit Bahadur Thatal

Present : Mr. S. P. Wangdi, Public Prosecutor with  
with Mr. Karma Thinlay, Asstt.Govt.Advocate  
for the State.

Jit Bahadur Thatal, accused-respondent in  
person.

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Coram : The Hon'ble Mr. Justice Ripusudan Dayal, Chief  
Justice.

The Hon'ble Mr. Justice Anup. Deb, Judge.

ORDER

Dayal, C.J.

This criminal revision was registered by this Court suo motu to satisfy itself as to the correctness, legality and propriety of the Order dated 8th February, 2000 passed by Mrs. M. M. Rai, the then Judicial Magistrate, Gyalshing, West Sikkim in criminal case No.19/1999. The relevant portion of the impugned order reads as under :-

"Charge framed and read over and explained to the accused in Nepali. He pleads guilty and does not claim trial. I accordingly find him guilty on his own plea

*M. M. Rai*

and sentence him to simple imprisonment for two months and to pay a fine of Rs.500/- in default, to undergo further S.I. for 1 month, the sentence shall run concurrently. Seized articles if any be confiscated to the State."

2. A bare perusal of the Order reproduced above shows that the learned Magistrate did not exercise due care in passing the order. She did not even mention the offences of which the accused was found guilty. Though she stated in the earlier part of the order that there are sufficient materials "to frame the charge against the accused under Section 341/326/427 I.P.C.", that did not justify her to leave the order of conviction vague. She did not mention the relevant facts which had bearing on the amount of punishment awarded for the offence under Section 326. The offence under Section 326 I.P.C. is punishable with imprisonment for life or with imprisonment of either description for a term which may extend to ten years and also with fine. She did not mention the nature of the injury caused to the victim and also the nature of the weapon used for causing the injury. As per the charge sheet, accused had cut foot of the victim with 'Khukuri' which caused grievous hurt. We also find that the charge framed by her was vague inasmuch as in the charge under Section 326 I.P.C., there was no indication as to the nature of the injury or the weapon by which the injury was caused.

*M. M. S. R.*

She only stated that the accused "voluntarily caused greivous hurt to the complainant". The impugned order is wholly improper.

3. In the result, the revision is allowed, the impugned order dated 8.2.2000 is set aside and the matter is remitted to the Court of the Chief Judicial Magistrate, South and West for disposal according to law in the light of the observations made above.

Respondent Jit Bahadur Thatal shall appear in the Court of the Chief Judicial Magistrate, South and West on 19th June, 2000.

Let a copy of this Order be placed on the administrative side.



( A. Deb )  
Judge.  
26/5/2000



( R. Dayal )  
Chief Justice.  
26/5/2000