

ATTEMPT TO MURDER (Section 307 IPC) AND MEDICAL EVIDENCE A CASE REPORT

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ABSTRACT:

The investigating authorities often make heinous offences like u/s Section 307 IPC, without taking into consideration the medical evidence, by taking advantage of the legal loop-holes, causing undue harassment to the alleged accused while the medical evidence plays a pivotal role in establishing such cases in a court of law. The authenticity of medical opinion is discussed in this case wherein the offence u/s 307 IPC against the alleged accused was ordered to be cancelled by the court keeping in view the simple nature of injuries from medical evidence.

KEY WORDS: Dangerous to life, Medical evidence.

CASE HISTORY:

On August 14, 2004 at 12:10 PM, an injured male aged 24 years with alleged homicidal injuries was examined in the Casualty Department of Rajindra Hospital (Govt. Medical College) Patiala. He was conscious; Pupils were normal and reactive; B.P. 120/84 mm of Hg and Pulse 78 / minute; regular & good volume. The injuries were as follows:

1. Lacerated wound, 2 cm X 0.2 cm present on left ala of nose with fresh bleeding. Advised X- Ray & observation.
 2. Alleged application of rod on the back. No visible external injury seen. Advised X-Ray.
- The nature of injuries was to be given on receiving bed head ticket record through police. The probable duration of injuries was within 24 hours and the kind of weapon used was blunt.

Before the final opinion was given, it was informed that a case under Section 307 IPC had been registered against the alleged accused who approached the court. As desired by the Hon'ble court and on receiving request, written information was sent to the court that from the bed head record, the injured was discharged from the hospital the same day in a satisfactory condition after stitching of the wound on nose and doing medico-legal X-Ray for the injuries mentioned in the medico-legal report which showed no bony injuries and none of the injuries was on any vital part of the body.

On the basis of this partial opinion, the court stayed the arrest of the alleged accused and directed the in-charge of the concerned police

station to explain imposition of Section 307 IPC in this case and produce final opinion on nature of injuries, which on police request was given as follows: -

“After going through the bed head ticket, medico-legal X-Ray report and injuries noted on examination, the injuries are declared as simple in nature. Opinion regarding any danger to the life of the injured regarding application of blunt weapon as iron rod on head can not be given in the absence of the actual application of the said weapon on head”

After hearing both sides i.e. the applicant named as accused and the prosecution, the court ordered that it is of the considered view that alleged injuries attributed to the applicants were declared simple in nature by the medical officer, who medically examined the injured, as also by the medical board got instituted by the prosecution. So, the medical evidence indicates the commission of offence punishable u/s 323 IPC only. One fails to understand, as to why a minor scuffle has been blown out of proportion, which is a question mark on the conduct of the police. While conducting the investigation, S.H.O. of concerned police station shall remain cautious in such like cases, who should add heinous offences like offence under section 307 IPC only when the medical evidence indicates so and in these circumstances, on the face of it offence under section 307 IPC is not disclosed and custodial interrogation in the judgment of the court shall be abuse of the process of the law.

DISCUSSION:

The Indian Penal Code, 1860 (Act No. 45 of 1860) Section 307 defines the offence of “attempt to murder” as “Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine” The act as mentioned in this section and which can cause death of a person in the ordinary course of nature, in the medico-legal context involves:-

1. Parts of human body i.e. head, chest and abdomen with vital organs underneath like brain, heart, lungs, abdominal viscera or testes.
2. Use of any dangerous weapon or means as defined under Sec. 324/ 326 IPC i.e. “.... any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison, or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into blood, or by means of any animal” which can kill a person.

The Investigating Officers, before establishing intention or knowledge and circumstances in criminal cases of heinous nature like attempt to murder u/s 307 IPC, should take medical evidence into consideration which otherwise is taken after registration of the criminal case against the alleged accused in case injuries are caused and the injured medically examined. Attempt to murder is a non-bailable offence often registered by police on the statement of the complainant which puts a question mark on the conduct of the police and undue harassment and mental torture to the alleged accused.

The role of medical evidence in administration of justice is undisputed. In large number of criminal cases, medical evidence plays

a pivotal role not only in solving the case but at times it is the key evidence before the court of law, on the basis of which justice is dispensed. The manner and type of medical evidence is of utmost importance in arriving at justifiable conclusions and avoiding its miscarriage.

For the investigating authorities, it is a difficult job to establish the intention or knowledge of the accused and sometimes the circumstances under which the act, which can cause death, was done. Under these circumstances, the medical evidence in the form of nature of injuries can well establish nature of the offence.

As remarked by the court, the registration of criminal cases u/s 307 IPC, often puts question mark on the conduct of the police when such heinous offences are added without medical evidence. It seems that there is an anomaly in the Indian Penal Code wherein criminal cases are registered without considering medical evidence in cases like this. This requires an urgent discussion of medical and legal experts on this section of law and if need be, the desired amendment.

CONCLUSION:

Medical evidence plays a key role in administration of justice both in criminal and civil cases. The manner and type of medical evidence provided to the court of law is of utmost importance in arriving at justifiable conclusions and avoiding miscarriage of justice. A mandatory provision in the legal system should be introduced wherein the investigating authorities will make heinous offences like offence u/s sec. 307 IPC only after taking medical evidence into consideration if the injured was medically examined

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