

Santosh Vs. the State of M.P.

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Court : Madhya Pradesh

Decided On : Jul-18-2012

Appellant : Santosh

Respondent : The State of M.P.

Advocate for Pet/Ap. : Shri. Ashok Chakraverti

Judgement :

1 Criminal Appeal Noi.2150/2003 HIGH COURT OF MADHYA PRADESH
JABALPUR Criminal Appeal No.2150/2003 Santosh Vs. State of Madhya Pradesh

----- Present :
Hon'ble Shri Justice N.K. Gupta.

Name of counsel for the parties: Shri Ashok Chakraverti, counsel for the appellant.
Shri G.S. Thakur, Panel Lawyer the respondent/State.

JUDGMENT

(Passed on 18th day of July, 2012) The appellant has preferred this appeal against the judgment dated 3.12.2003 in S.T. No.178/2002 passed by the 1 st Additional Sessions Judge Raisen, whereby the appellant was convicted for the offence punishable under Section 324 of IPC and sentenced for two years R.I. with fine of `500/-. In default of payment of fine, he was to undergo for one month's R.I.

2. Prosecution's case in short is that on 10.5.2002 the complainant Sunil Gupta (PW-1) was working in his shop at Arujn Nagar, Police Station, Obedullaganj District Raisen. The appellant Santosh and accused Manot were harassing a vendor of ice cream in front of the shop of the complainant Sunil Gupta. When the complainant Sunil Gupta went to mediate and stop the quarrel then, Manot and Santosh started abusing him. On 10.5.2002 in the 2 Criminal Appeal Noi.2150/2003 evening, the victim informed about the incident to one Rajkumar, brother of Santosh. On 11.5.2002, the appellant Santosh came to the shop of the complainant and started quarrel with him but, mother of the appellant took him with her. Again in the evening of 11.5.2002 the appellant and other accused persons went to the shop of the complainant and assaulted him. The appellant Santosh assaulted the victim on his neck by a dagger. He was saved by the witnesses. The victim was taken to the Police Station, Obedullaganj, where he lodged an FIR Ex.P/1. The victim was sent to the hospital for his medico legal examination and treatment. Dr. Mrs. Shaili (PW-5) had examined the victim Sunil and found that he sustained an incised wound on his throat. After preliminary treatment, the victim was referred to Hamidiya Hospital, Bhopal and report Ex.P/6 was given by the Dr. Mrs. Shaili. After due investigation, a charge sheet was filed before the J.M.F.C. Goharganj, which was committed to the Sessions Court, Raisen and ultimately, it was transferred to the 1 st Additional Sessions Judge, Raisen.

3. The appellant abjured his guilt. He did not take any specific plea. However, he has stated that he was falsely implicated in the matter due to enmity. In defence, Rukmani Bai (DW-1) and Mangal Singh (DW-2) were examined.

4. Learned 1st Additional Sessions Judge, Raisen after considering the evidence of both the parties, acquitted all the accused persons except the appellant from the charges of offences 3 Criminal Appeal Noi.2150/2003 punishable under Sections 307, 148 & 147 of IPC but convicted the appellant for the offence punishable under Section 324 of IPC and sentenced him as mentioned above.

5. I have heard learned counsel for both the parties.

6. Learned counsel for the appellant has submitted that the appellant remained in the custody for 266 days. He has faced the trial and appeal for last ten years. He

was a young youth of 20 years of age at the time of incident, and if he is sent to jail again then his future will be spoiled. Under such circumstances, it is prayed that his jail sentence may be reduced to the period, which he has already undergone in the custody. However, some fine amount may be enhanced.

7. After considering the submissions made by learned counsel for the parties, it appears that the appellant does not want to challenge the conviction directed against him and therefore, there is no need to discuss the matter on that point.

8. So far as the sentence is concerned, the appellant was convicted for the offence punishable under Section 324 of IPC. He gave only one incise wound to the victim. He was a young youth of 20 years of age at the time of incident but there is no reason to enlarged the appellant on probation. However, looking to his age and custody period of 266 days alongwith the period of harassment, which he faced during the trial and appeal, it would be proper, No.4 Criminal Appeal Noi.2150/2003 to send him in the jail again. However, fine amount may be enhanced.

9. On the basis of aforesaid discussion, the appeal filed by the appellant is hereby partly allowed. The conviction directed for the offence punishable under Section 324 of IPC is hereby affirmed but the sentence is reduced to the period, which he has already undergone in the custody. However, fine amount is enhanced from a sum of `500/- to a sum of `5,000/-. The appellant is directed to deposit the remaining fine amount before the trial Court within two months from today, failing which he shall undergo for six months R.I. On depositing the fine amount, a sum of `4,000/- (Rupees four thousand) will be given to the victim Sunil Gupta S/o K.P. Gupta, R/o Arjun Nagar, Obedullaganj, District Raisen.

10. Presence of the appellant is no more required before this Court and therefore, it is directed that his bail bonds etc. shall stand discharged.

11. Copy of the judgment be sent to the trial Court with its record for information and compliance. (N.K. GUPTA) JUDGE 18 07.2012 pnkj