

Gupta Vs. the State of M.P.

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Court : Madhya Pradesh

Decided On : Apr-30-2013

Appellant : Gupta

Respondent : The State of M.P.

Judgement :

HIGH COURT OF MADHYA PRADESH : JABALPUR Cr.Rev. No.986/1999 Gupta S/o Dashrat Gond Vs. State of M.P. As Per : G.S.Solanki, J.Ms. V. Bhatnagar, Advocate for the applicant. Shri Pushpraj Singh, PL for the State.

ORDER

30.04.2013 This revision has been preferred by the applicants under section 397/401 of the Cr.P.C. being aggrieved by judgment dated 23.6.1999 passed by Second Additional Sessions Judge, Seoni in Cr. A. No.38/1997 whereby the appeal of the applicants has been dismissed and further the conviction and sentence recorded by the learned JMFC, Seoni vide judgment dated 25.2.1997 in Criminal Case No.1087/93, wherein applicants have been convicted under Section 51 of Wild Life (Protection) Act and sentenced to undergo RI for 1 year and fine of Rs.5,000/- each, with default stipulation, has been affirmed.

2. The facts giving rise to this revision, in short, are that on 13.2.1993, forest employees namely Suraj Prasad Sanodiya (PW3) and Deputy Ranger, P.R. Sanodiya (PW1) found that some parts of wild pig namely Jaw, Intestine etc. were lying in the field of the applicant, which were seized vide Ex.P/1. Statements of the

applicant and his co-accused Bhaiyalal were recorded in the presence of Panch Witnesses. They made confession before the Forest Officers that they killed a wild pig and thereafter sold its flesh to one Udkud @ Udhan Nai and Pandu @ Doman. Statements of the applicant and his co-accused Bhaiyalal are Ex.P/4 and P/5 respectively. Same were recorded by P.R. Sanodiya (PW1). After completing the aforesaid investigation, a charge sheet was filed and offence under section 51 of Wild Life (Protection) Act was registered against the applicant and his co-accused Bhaiyalal.

3. On appraisal of evidence on record, the trial Court convicted the applicants under section 51 of Wild Life (Protection) Act and sentenced to R.I. for 1 year and fine of Rs. 5,000/-, with default stipulation.

4. The applicants abjured the guilt and pray for trial and recording of evidence. The applicants have been convicted. Being aggrieved thereby they preferred an appeal before the Second Additional Sessions Judge, Seoni. During pendency of the appeal, co-accused Bhaiyalal had died. The appeal of Bhaiyalal is, therefore, abated. It is, therefore, dismissed as abated. The appeal of applicant Gupta S/o Dashrat Gond has been dismissed by the Appellate Court by affirming the conviction and sentence awarded by the trial Court. Hence this revision.

5. Learned counsel for the applicant has submitted that trial Court as well as Appellate Court committed illegality in not appreciating the evidence on record in their true perspective. She further submitted that there is no specific evidence in regard to the fact that applicant killed the wild pig. In the alternative, she stated that applicant is a Tribe. He has no previous criminal record. The applicant has suffered the jail sentence of about more than 2 months, therefore, no useful purpose is going to be served by sending the applicant again in the jail, thus, in the interest of justice, the applicant may be sentenced for the period already undergone and fine of Rs. 5,000/-, which has already been deposited.

6. Learned counsel for the State has supported the judgment and finding recorded by the Courts below.

7. I have perused the impugned judgments passed by the Appellate Court and trial Court. It is amply proved by the statements of P.R. Sanodiya (PW1) and Suraj Prasad Sanodiya (PW3) that they found the parts of the body of wild pig and same has been seized from the field of this applicant. These witnesses are forest employees. Naturally they easily identify the Jaw and other parts of the body of wild animal. Applicant himself made a confession before the Forest Officer i.e. P.R. Sanodiya (PW1), who recorded his statement before the Panch Witnesses and same is admissible against this applicant. Nothing has been brought on record that P.R.Sanodiya had any enmity with this applicant. In these circumstances, trial Court as well as Appellate Court have not committed any illegality in recording the conviction under Section 51 of Wild Life (Protection) Act against this applicant.

8. Since learned counsel for the applicant has not challenged the conviction recorded by the Courts below, the same is hereby affirmed.

9. So far as sentence is concerned, the incident took place 20 years ago. The applicant has suffered the jail sentence of about 2 months and deposited fine amount of Rs. 5,000/-, therefore, in my opinion, no useful purpose is going to be served by again sending the applicant to the jail, therefore, the revision is partly allowed. The conviction recorded by the Courts below is hereby affirmed, however, the sentence recorded by the Courts below is reduced to the period already undergone i.e. 2 months and fine amount of Rs. 5,000/-, which has already been deposited.

10. Record of the trial Court be sent back immediately along with a copy of this Order.

11. Office is directed to send a copy of this judgment to the Jail Superintendent, District Jail, Seoni for compliance and necessary action. (G.S.Solanki) Judge ravi

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