

The State of Madhya Pradesh Vs. Anil Tanwar

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Court : Madhya Pradesh

Decided On : Aug-27-2013

Appellant : The State of Madhya Pradesh

Respondent : Anil Tanwar

Judgement :

M.Cr.C.No.6034/2012.

27.8.13 Per B.D.Rathi,J Shri S.K.Kashyap, Government Advocate for the applicant- State.

This application for grant of leave to appeal has been preferred under Section 378(3) of the Code of Criminal Procedure (hereinafter referred to as the Code.) being aggrieved with the judgment dated 30/11/2011 passed by the XIV Additional Sessions Judge, Bhopal, in Sessions Trial No.52/2008, whereby respondent no.5 Ajay Tripathi has been acquitted of the offence under Section 307 of the Indian Penal Code for short (the IPC.) and the remaining respondents have been acquitted of the offences punishable under Section 323 of the IPC, but all the respondents have been convicted under Sections 147 and 323/149 of the IPC.

Prosecution case, in brief, is that on 04/03/2007 at about 8.30 PM, respondents constituted an un-lawful assembly near Shivji Temple at National Highway Masrod and in furtherance of their common object, assaulted complainant Chetan and respondent no.5 also attempted to trample him under a Car.

Report of the incident was lodged by the complainant on the same day at about 11 p.m., on which Dehati Nalishi was recorded, and after investigation, charge-sheet was filed.

Learned Government Advocate submitted that the impugned judgment was passed without proper appreciation of evidence on record and all the respondents except respondent no.5 should have been convicted under Section 323 of the IPC and respondent no.5 ought to have been convicted under Section 307 of the IPC.

Having regard to the arguments advanced by the learned Government Advocate, impugned judgment and record of the trial Court were perused.

Sunil Kumar Sharma (PW1).Khoob Singh (PW2) and Dinesh Patidar (PW10) were declared hostile.

Dr.

K.S.Thakur (PW3).friend of the complainant, also did not support the prosecution version.

Complainant Chetan (PW8) deposed that respondent Rajesh had slapped him while the others had grappled with him and assaulted with kicks and fists, whereas respondent no.5 Ajay Tripathi had assaulted him on his head with an Ironlike weapon.

Vinot Patidar deposed that respondent no.5 had assaulted Chetan with a Rod.

His evidence was corroborated by Gopal (PW7).Dr.

Rajesh Sharma (PW4) opined that the head injury sustained by the complainant was simple in nature.

Complainant deposed that Ajay had tried to trample him with a White Accent, whereas, Dinesh (PW10) deposed that it was an Indica Car, while Gopal (PW7) stated it was a Maruti.

Trial Court found that while fleeing the respondents had reversed the vehicle giving a false notion to the complainant that the respondents were attempting to run him over.

In the aforesaid premises, the trial Court passed the impugned judgment.

We agree with the findings recorded by the trial Court that prosecution has failed to prove its case beyond reasonable doubt.

The appeal, being devoid of merit and substance, stands dismissed.

(AJIT SINGH) (B.D.RATHI) JUDGE JUDGE (and)

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