

Sunil Kumar and ors. Vs. the State of M.P.

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Court : Madhya Pradesh

Decided On : Jul-16-2013

Appellant : Sunil Kumar and ors.

Respondent : The State of M.P.

Judgement :

1 HIGH COURT OF MADHYA PRADESH : JABALPUR Criminal Appeal No.1305/1997 Sunil Kumar and others Vs. State of M.P. Criminal Appeal No.1327/1997 Naim Baig and another Vs. State of M.P. As Per : G.S.Solanki, J.Shri Parag Chaturvedi, Advocate for the appellants. Shri Yogendra Das Yadav, PL for the respondent/State.

JUDGMENT

(16/07/2013) 1. As these appeals are arising out of the same impugned judgment therefore, both are being decided by this common judgment.

2. These appeals have been preferred by the appellants u/s 374 of Cr.P.C being aggrieved by the common impugned judgment dated 28/06/1997 passed by Additional Sessions Judge, Umariya, District Shahdol in S.T. No.49/94 whereby being 2 convicted u/s 323/149 of IPC, they have been sentenced to undergo RI for 1 year & fine of Rs. 1000/- each with default stipulations.

3. It is undisputed that appellants Sunil Kumar, Badri Prasad Dahiya and Govind Patel have been died and appeal pending against them has been abated.

4. The facts giving rise to these appeals, in short, are that on 1/11/1992 at about 3.00 PM appellants prepared an unlawful assembly to assault the complainant Narendra Singh and thereafter they assaulted him at village Sastara in furtherance of common object of the aforesaid unlawful assembly. Complainant/injured lodge a report against these appellants and he was sent for medical examination at Revisional Hospital, Nourojabad Kalri where Dr. T.K. Karmakar (PW-5) examined him. Appellants alongwith the co-accused have been arrested and after completion of investigation, charge sheeted before the ACJM, Umariya who in turn committed the case to the Court of Sessions. Additional Sessions Judge, Umariya framed the charges u/s 307/149, 148 of IPC against the appellants. Appellants abjured the guild and pleaded false implication. On appraisal of evidence on record though appellants have been acquitted to the charges u/s 307/149, 148 of IPC however, they have been convicted u/s 323/149 of IPC and sentenced as above. Hence, these appeals.

5. Learned counsel for the appellants submits that he does not want to challenge the conviction recorded by the trial court. 3 It is further submitted that the incident took place in the year 1992, 21 years back and applicant Sappu @ Salim has suffered the jail sentence of 94 days, applicant Kailash has suffered the jail sentence of 103 days, applicant Rajendra has suffered the jail sentence of 84 days and applicant Naim Baig has suffered the jail sentence of 69 days respectively therefore, the ends of justice would be met if the appellants may be sentenced for the period already undergone.

6. Learned Panel Lawyer for the State has supported the conviction and sentence recorded by the Court below.

7. I have heard learned counsel for the parties and perused the impugned judgment alongwith the record. Since learned counsel for the appellants has not challenged the conviction recorded by trial Court u/s 323/149 of IPC, same is hereby affirmed.

8. However, the incident took place in the year 1992, 21 years back and appellants have suffered the aforesaid jail sentence therefore, in my opinion, no fruitful purpose is going to be served by again sending them to the jail. In these

circumstances, it would be in the interest of justice if the appellants are sentenced for the period already undergone with the fine amount as awarded by trial Court.

9. Consequently, the criminal appeals are partly allowed. The conviction of appellants recorded by the trial Court u/s 323/149 of IPC is hereby affirmed. The sentence of appellants 4 recorded by trial court is reduced. They are sentenced for the period already undergone (Sappu @ Salim-94 days, Kailash-103 days, Naim Baig-69 days and Rajendra Mehta-84 days respectively) & fine amount as awarded by the trial court.

10. Appellants are on bail. Their bail bonds and surety bonds are discharged.

11. Record of the trial Court be sent back immediately alongwith copy of this judgment for information and necessary compliance. (G.S.Solanki) Judge navin

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