

Atar Singh Vs. State of M.P.

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Court : Madhya Pradesh

Decided On : Feb-19-2013

Appellant : Atar Singh

Respondent : State of M.P.

Advocate for Pet/Ap. : Shri. Ramesh Tamrakar

Judgement :

HIGH COURT OF MADHYA PRADESH AT JABALPUR SINGLE BENCH
PRESENT : HON'BLE SHRI JUSTICE N. K. GUPTA CRIMINAL REVISION
NO.267 of 1999 Atar Singh Vs. State of Madhya Pradesh
..... Shri Ramesh
Tamrakar, counsel for the applicant. Shri Ajay Tamrakar, Panel Lawyer for the
respondent/ State.

ORDER

(Delivered on the 19th day of February, 2013) The applicant was convicted for offence punishable under Section 325 read with Section 34 of I.P.C by the Additional Chief Judicial Magistrate, Gadarwara in Criminal Case No.354/95 and vide judgment dated 29.1.1998 he was sentenced for six months simple imprisonment with fine of Rs.250/-. In Criminal Appeal No.15 of 1998 the Additional Sessions Judge, Gadarwara vide judgment dated 27.2.1998 dismissed the appeal. Being aggrieved with both the judgments the applicant has preferred this revision.

2. The prosecution's case in short is that, on 25.5.1995 at about 9.00 a.m in the morning the applicant was constructing a house in the land of victim Munshilal at Village Pithwani (Police Station Saikheda, District Narsinghpur). 2 Criminal Revision No.267/1999 When the applicant was prohibited to do the construction, he assaulted the victim by an iron rod causing several injuries to the victim Munshilal. The co-accused Shambhu also participated in the crime. The victim Munshilal informed the Police at Police Station Saikheda about the incident and a Rojnamchasana Ex.P/10 was written. The victim was sent for his medico legal examination and treatment. Three injuries were found to the victim. Out of them one injury was grave. A fracture was found on right radius of the victim. A charge sheet was filed before the trial Court.

3. The applicant abjured his guilt but no specific plea was taken by him and no defence evidence was adduced.

4. The learned Additional Chief Judicial Magistrate, Gadawara after considering the evidence adduced by the prosecution convicted the applicant for offence punishable under Section 325 read with Section 34 of I.P.C and sentenced as mentioned above whereas the appeal filed by the applicant was dismissed in toto.

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

6. After considering the submissions made by learned counsel for the parties and the facts and circumstances of the case, it is established that the applicant was the person who assaulted the victim Munshilal by an iron rod causing him three injuries in which one was a fracture. Both the Courts below took a concurrent view that it was the applicant who assaulted the victim voluntarily and caused a grave injury to 3 Criminal Revision No.267/1999 him and therefore, the applicant was convicted for offence punishable under Section 325 read with Section 34 of I.P.C. The view taken by both the Courts below cannot be disturbed in the revision. The concurrent findings given by both the Courts below cannot be disturbed without any reason and therefore, conviction directed against the applicant for offence punishable under Section 325 read with Section 34 of I.P.C appears to be proper.

7. So far as the sentence is concerned, it is apparent that the applicant was a youth of 25 years of age but he was above 21 years of age and therefore, it was not mandatory to release him on probation. There was no any ground so that he could be released on probation. However, he was a youth and first offender. He has faced the trial, appeal and revision since last 17 years. not he is settled in life. He remained in custody for eight days during the pendency of the revision. Under such circumstances, it would be proper not to send the applicant into the jail again. However, the fine amount may be increased.

8. On the basis of the aforesaid discussion the revision filed by the applicant is hereby partly allowed. The conviction directed by the Courts below is hereby maintained but the sentence is reduced to the period which he has already undergone in the custody. However, in addition a fine of Rs.5000/- is imposed upon the applicant. The applicant is directed to deposit the remaining amount before 4 Criminal Revision No.267/1999 the trial Court within two months from today failing which he shall undergo for six months rigorous imprisonment. If fine of Rs.5000/- is deposited then a sum of Rs.4000/- be given to the victim Munshilal s/o Halku r/o Village Pithwani, Tah. Gadarwara, District Narsinghpur by way of a compensation.

9. The applicant is on bail. His presence is no more required before this Court and therefore, it is directed that his bail bonds shall stand discharged.

10. Copy of the order be sent to both the Courts below along with their records for information. The trial Court is directed to comply with the order and if fine amount is not deposited within the stipulated period then a warrant of arrest be issued against the applicant for execution of default sentence. (N.K.Gupta) Judge
19.02.2013 bina

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