

Rajesh Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Aug-22-2012

Appellant : Rajesh

Respondent : The State of Madhya Pradesh

Advocate for Pet/Ap. : Shri. Narendra Nikhare

Judgement :

IN THE HIGH COURT OF MADHYA PRADESH, JABALPUR SB: Honble Mr. Justice N.K.Gupta, J.Criminal Appeal No.1653/2008 Rajesh and 10 others Vs. State of Madhya Pradesh Shri Narendra Nikhare, counsel for the appellants. Shri Ajay Tamrakar, Panel lawyer for the respondent-State.

JUDGMENT

(Delivered on the 22nd day of August, 2012) The appellants have preferred this appeal against the judgment dated 23.7.2008 passed by the Special Judge under the SC/ST (Prevention of Atrocities) Act, Raisen in ST No.65/2002 whereby the appellants were convicted and sentenced as mentioned in the table below :

Section	Act	Sentence	Fine	Sentence, amount in default of payment of fine.
148	I.P.C	Six months R.I.	Rs.100/-	One month's rigorous imprison.
324	Two month's read with rigorous	Section I.P.C.	one months R.I.	Rs.500/- imprison

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326. read 3 month's with I.P.C Three years R.I. Rs.1000/- rigorous Section imprisonment

341. read 10 days with I.P.C One month's R.I. Rs.100/- rigorous Section imprisonment

294. read 10 days with I.P.C One month's R.I. Rs.100/- rigorous Section imprisonment.

149 All the sentences to run concurrently.

2. The prosecution's case in short is that on 2.3.2002 at about 12.00 o'clock in the noon the appellants gathered at village Chandoni Gadhi to assault the victims Harbajan, Putli Bai and Parwati Bai and therefore, they wrongfully restrained the victims. Thereafter, the appellants abused them with the obscene words and started assaulting those three persons with deadly weapons like rod, katarna and sticks. Due to that assault the victims sustained various injuries. They were directed to the hospital for their medico legal examination. Dr. Thakur (PW10) examined the victim at Community Health Centre, Gairatganj. He found 13 incised wounds to the victim Harbajan and he opined that the entire effect of the injuries was of grave in nature. He gave a report Ex.P/8 in that respect. Similarly, he found three incised wounds to the victim Putli Bai and gave his report Ex.P/9. Dr. Thakur also examined the victim Parwati Bai and he found four incised wounds and three other wounds caused by hard and blunt 3 Criminal Appeal No.1653 of 2008 object. Parwati Bai was referred for her X-ray examination but, no fracture was found to her. The injured Harbajan and Parwati Bai were referred to the Hamidia Hospital, Bhopal where they were examined by Dr. Brijesh Mankar (PW18). Dr. Mankar also referred Harbajan Singh for his X-ray examination. Dr. Baweja (PW20) found fracture in right leg and right hand of the victim Harbajan Singh. After due investigation a charge sheet was filed before the CJM, Raisen who, committed the case to the Special Court.

3. The appellants abjured their guilt. They took a plea that they were falsely implicated in the matter. Some of them took the plea of alibi. Govind Sharma (DW1), Kamal Singh (DW2) and Hazarilal (DW3) were examined as defence witnesses to prove the plea of alibi for accused Kalyan Singh, Jamuna Prasad and Janki Prasad.

4. The learned Special Judge after considering the evidence adduced by the parties acquitted the appellants for offence punishable under Section 3(1)(x), 3(2)(v) of SC/ST (Prevention of Atrocities) Act and Section 307 read with section 149 of I.P.C but convicted and sentenced the appellants as mentioned above. The accused Rajaram expired during the trial.

5. During the pendency of the appeal the complainants/victims Harbajan Singh, Putli Bai and Parwati Bai have applied for compromise to seek the permission to compromise and also file a memo of compromise. Registrar 4 Criminal Appeal No.1653 of 2008 (Judicial-I) has duly verified the voluntariness of the victims and recorded the compromise as directed by the Court. It was directed that both the applications relating to the compromise shall be decided during the judgment.

6. The learned counsel for the appellants submits that the incident took place in the year 2002 and at that time offence under Section 324 of I.P.C was compoundable. Under such circumstances, offence under Sections 324, 341 and 294 of I.P.C are compoundable. Therefore, compromise may be accepted for such offences. Since the complainants are duly compensated and the appellants remained in the custody for more than two months during the trial their jail sentence be reduced to the period which they have already undergone in the custody.

7. After considering the submissions made by the learned counsel for the parties, it is apparent that the victims Harbajan Singh, Putli Bai and Parwati Bai have voluntarily accepted the compromise for the offences punishable under Sections 324, 341, 294 of I.P.C which are compoundable therefore, permission to compromise is given for such offences. Compromise filed by the parties is hereby accepted. In the result the applicants shall be acquitted from the charges of offence punishable under Sections 324 read with Section 149, 341 read with Section 149 and Section 294 of I.P.C. Offence punishable under Sections 148 and 326 read with Section 149 of I.P.C are not compoundable but, the 5 Criminal Appeal No.1653 of 2008 victim Harbajan has compromised with the appellants and the appellants remained in the custody for more than two months then it would be proper that in the light of the compromise the appellants shall not be sent to the

jail again and their jail sentence be reduced to the period which they have already undergone in the custody.

8. On the basis of the aforesaid discussion the appeal filed by the appellants is hereby partly allowed. The conviction and sentence directed for the offence punishable under Section 324 read with Section 149, 324 read with Section 149 and 294 of I.P.C are hereby set aside. The appellants shall be entitled to get the fine amount back for such offences if they have deposited before the trial Court, whereas the conviction directed for offence punishable under Section 148 and 326 read with section 149 of I.P.C is hereby maintained but, sentence is reduced to the period which the appellants have already undergone in the custody. No change in fine amount. The appellants are directed to deposit the fine amount for the offences punishable under Section 326 read with section 149 and 148 of I.P.C within two months from today otherwise they have to undergo for the default sentence as prescribed by the trial Court.

9. The appellants are on bail at present. Their presence is no more required. Consequently, it is directed that their bail bonds shall stand discharged. 6 Criminal Appeal No.1653 o

10. Copy of the judgment be sent to the trial Court for the information and compliance. (N.K.Gupta) Judge 22.8.2012 bina

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