

ishwar Prasad Vs. the State of M.P.

ishwar Prasad Vs. the State of M.P.

SooperKanoon Citation : sooperkanoon.com/1045952

Court : Madhya Pradesh

Decided On : May-14-2013

Appellant : ishwar Prasad

Respondent : The State of M.P.

Judgement :

(1) Cr.A.No.841/1998 HIGH COURT OF MADHYA PRADESH:JABALPUR
SINGLE BENCH PRESENT: HON'BLE SHRI JUSTICE RAKESH SAKSENA
CRIMINAL APPEAL No.841/1998 Ishwar Prasad, son of Sevaram Lodhi aged
about 20 years, resident of village Tapakia, P.S. Chargawan, Teh. Patan District
Jabalpur.Appellant Versus State of Madhya Pradesh through P.S.
Chargawan, District Jabalpur.Respondent

----- For
the appellant: Shri Mukesh Pandey, Advocate. For the respondent: Shri Umesh
Pandey, Govt. Advocate.

JUDGMENT

(14.05.2013) Appellant has filed this appeal against the judgment dated 31st March, 1998 passed by VII Additional Sessions Judge, Jabalpur in Sessions Trial No.83/97 convicting him under section 324 of the Indian Penal Code and sentencing him to rigorous imprisonment for two years.

2. In short, the prosecution case is that on 15.3.1995 at about 11:00 a.m. in village Tapakia, when complainant Kamal Singh was grazing his bullock in his field, Bali, a younger brother of appellant intruded his bullock in the gram field of complainant. (2) Cr.A.No.841/1998 When complainant asked him to take out his bullock, he abused and intimidated him. After sometime appellant reached there with a baka (a sharp edged weapon) and after abusing and intimidating him, dealt blow of baka on his head, as a result of which, he suffered injury in his head and fell down. Co-accused Bali also assaulted Kamal Singh with a stick on his legs. Kamal Singh went to police station, Chargawan and lodged first information report Ex.P/3. He was sent for treatment and medical examination to PHC Chargawan. Dr.Pradeep Agrawal (PW-5) examined his injuries and gave MLC report Ex.P/7. He found one incised wound 3cm x 1/2cm x bone deep on his left temporal region and two contusions on the left knee. After investigation, charge sheet was filed under section 307 I.P.C. and the case was committed for trial.

3. Learned trial Judge after appreciating the evidence on record, found that appellant caused incised injury on the head of Kamal Singh. However, finding the evidence insufficient for bringing home the charge under section 307 I.P.C., acquitted him of that charge. Aggrieved by his conviction and sentence, appellant has filed the present appeal.

4. Learned counsel for the appellant has not challenged the conviction of appellant under section 324 I.P.C. He, however, submitted that since the incident had occurred in the year 1995 and more than 16-17 years have elapsed, the sentence of imprisonment awarded to appellant be reduced and instead some fine be imposed (3) Cr.A.No.841/1998 on him. Learned counsel for the State has supported and justified the impugned judgment of conviction of appellant.

5. On perusal of the evidence of Kamal Singh (PW-2), I find that he categorically stated that appellant came with a baka in his field and assaulted with it on his head. His evidence finds support from the first information report Ex.P/3 and also by the evidence of Dr.Pradeep Agrawal (PW-5) who found an incised wound 3cm x 1/2cm x bone deep on the temporal region of his skull. In these circumstances, I find that the conviction of appellant under section 324 I.P.C. is well justified.

Accordingly, his conviction is affirmed.

6. As far as question of sentence is concerned, learned counsel for the appellant pointed out from para 29 of the impugned judgment that appellant has already remained in jail for a period of one month and 20 days. He submitted that after more than 15-16 years of the occurrence no useful purpose would be served if appellant is again sent to jail for serving out sentence of imprisonment. I find substance in the submission made by learned counsel for the appellant.

7. Accordingly, I affirm the conviction of appellant under section 324 I.P.C. However, I deem it appropriate to reduce his jail sentence. The sentence of rigorous imprisonment for 2 years awarded by the trial Court to the appellant is reduced to the period of sentence already undergone by him, however, a fine of Rs.20,000/- is imposed on him. This amount shall be deposited by (4) Cr.A.No.841/1998 the appellant in the trial Court within a period of three months from today. In case of default of payment of fine, appellant shall suffer rigorous imprisonment for 6 months.

8. Appeal partly allowed. (RAKESH SAKSENA) JUDGE b

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com