

Raman @ Ramdas Vs. State of M.P.

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Court : Madhya Pradesh

Decided On : Mar-20-2013

Appellant : Raman @ Ramdas

Respondent : State of M.P.

Judgement :

1 HIGH COURT OF JUDICATURE MADHYA PRADESH, JABALPUR SB: HON.
SHRI N.K.GUPTA,J.CRIMINAL REVISION NO.1430/1999 Raman alias Ramdas.
Vs. State of Madhya Pradesh.

----- Shri Manish
Datt, Sr. Advocate with Shri Rahul Sharma, Advocate for the applicant. Shri
Prakash Gupta, Panel Lawyer for the respondent/ State.

ORDER

(Passed on the 20th day of March, 2013) The applicant was convicted for the offence punishable under Section 326 of IPC vide judgment dated 12.10.1998 passed by the JMFC Damoh (Shri U.S.Mishra) in Criminal Case No.339/1998 and sentenced with rigorous imprisonment of three years with fine of Rs.500/-. In Criminal Appeal No.57/1998 the learned First Additional Sessions Judge, Damoh vide judgment dated 17.9.1999 dismissed the appeal in toto. Being aggrieved with both the judgments, the applicant has filed the present revision.

2. The prosecution case, in short, is that on 28.10.1992 the victim Lattu (PW-2) went to the jungle of Manpura (Police Station Damoh Dehat District Damoh). At about 5:30 PM the applicant went to the jungle and 2 assaulted the victim Lattu by a spade causing him a grave injury on his head. He assaulted for 2-3 times and thereafter ran away. The victim Lattu was taken to the Police Station Damoh Dehat where he had lodged an FIR Ex.P-1. He was sent to the District Hospital Damoh for his medico legal examination and treatment. Dr. A.K.Tiwari (PW-4) examined him and gave his report Ex.P5-A. He found one incised wound on the left parietal region, whereas one bruise on the left side of the back of the victim. On X-ray examination Dr. O.P.Dubey (PW-6) found a fracture on the left parietal bone of the victim. After due investigation, a charge sheet was filed before the trial Court.

3. The applicant-accused abjured his guilt. He did not take any specific plea, but he has stated that he was falsely implicated in the matter. However, no defence evidence was adduced.

4. The learned JMFC Damoh after considering the prosecution evidence convicted and sentenced the applicant as mentioned above, whereas the appeal filed by the applicant was also dismissed in toto by the learned First Additional Sessions Judge, Damoh.

5. I have heard the learned counsel for the parties

6. The victim Lattu (PW-2) was examined before the trial Court and he has stated about the incident, whereas eye-witnesses Dhaniram (PW-3) and Puran (PW-7) have turned hostile. However, by the testimony of the victim Lattu (PW-2) and timely lodged FIR along with the medical report, it is proved that the applicant assaulted the victim Lattu by a spade on his head and the sharp edged of the spade caused a wound on his head, which was found to be grave. According to the FIR, no such enmity has been shown by the applicant with Lattu so that it can be said that the victim Lattu had falsely implicated the applicant due to enmity. Under such circumstances, the sole testimony of the victim is believable and it is proved that the applicant assaulted the victim for two times causing one grievous and one simple injuries. The applicant assaulted the victim for two times, whereas

he knew the result of the impact after his first assault, and therefore it is apparent that he intended to cause such injuries, and therefore he assaulted the victim voluntarily. The victim sustained a grave injury by the sharp edged weapon, and therefore the applicant has committed the offence under Section 326 of IPC. In such circumstances, the trial Court as well as the appellate Court has rightly convicted the applicant for commission of offence punishable under Section 326 of IPC. No 4 interference can be done in the conviction directed by both the Courts below.

7. So far as the sentence is concerned, the learned counsel for the applicant has submitted that the complainant was trying to remove the water from the field of the applicant by a spade due to which a sudden quarrel took place. It was not pre-planned quarrel. The applicant was the first offender and he has faced the trial, appeal and revision for last 20 years. He remained in the custody for 24 days during the trial, appeal and revision, and therefore it is prayed that the applicant may not be sent to the jail again.

8. The contention raised by the learned counsel for the applicant may be accepted. Actually the applicant gave one stroke with power and after second stroke he did not assault further. He remained in the custody for 24 days and has faced the trial, appeal and revision since long. In such circumstances, it would be proper that he may not be sent to the jail again. However, fine amount may be enhanced. In those days, there was a limit of Rs.5,000/- to the JMFC for imposition of fine, but that limit appears to be insufficient. In the present case, whereas reduction is to be caused in the jail sentence, therefore it would be proper to impose the payment of 5 compensation upon the applicant under Section 357 of Cr.P.C.

9. On the basis of the aforesaid discussion, the present revision filed by the applicant is partly allowed. The conviction directed by both the Courts below for commission of offence punishable under Section 326 of IPC against the applicant is hereby maintained, but sentence inflicted upon him is reduced to the period which he has already undergone in the custody by enhancing the fine amount from a sum of Rs.500/- to a sum of Rs.5,000/-. The applicant is also directed to pay a

sum of Rs.5,000/- as a compensation to the victim Lattu under Section 357 of Cr.P.C. in addition to the fine. The applicant is directed to deposit the fine amount within two months from today, failing which he shall undergo for one year's RI. If fine and compensation are deposited, then a sum of Rs.3,000/- be given to the victim Lattu S/o Shri Dhamkan @ Manesh R/o Village Manpura, Police Station Damoh Dehat District Damoh by way of a compensation out of fine along with additional compensation of Rs.5,000/-.

10. The applicant is on bail. His presence is no more required, therefore it is directed that his bail bonds shall stand discharged, if he deposits the fine and compensation before the trial Court

11. A copy of this order be sent to the trial Court as well as appellate Court along with their records for information and compliance. The trial Court is directed to recover the fine and compensation from the applicant as per the law. (N.K.Gupta)
Judge 20/03/2013 Ansari

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