

Ganesh Bokade Vs. the State of Madhya Pradesh

Ganesh Bokade Vs. the State of Madhya Pradesh

SooperKanoon Citation : sooperkanoon.com/1047317

Court : Madhya Pradesh

Decided On : Feb-25-2013

Appellant : Ganesh Bokade

Respondent : The State of Madhya Pradesh

Advocate for Pet/Ap. : Shri. A.R.S. Chauhan

Judgement :

HIGH COURT OF MADHYA PRADESH JABALPUR Criminal Revision
No.2077/2011 Ganesh Bokade Vs. State of Madhya Pradesh

Present : Hon'ble Shri Justice N.K. Gupta.

Name of counsel for the parties: Shri A.R.S. Chauhan, counsel for the applicant.
Shri Ajay Tamrakar, Panel Lawyer for the respondent/State.

ORDER

(Passed on 25th day of February, 2013) The applicant was convicted for the offences punishable under Sections 325 & 323 of IPC and sentenced for one year R.I. with fine of `500/- and `500/- respectively vide judgment dated 17.8.2011 passed by the learned J.M.F.C. (Shri A.K. Dandeliya) Saunsar, District Chhindwara in criminal case no.411/08. Thereafter, a criminal appeal no.286/11 was filed by the applicant and vide judgment dated 24.11.2011, the same was

partly allowed by the Sessions Judge, Chhindwara and the applicant was acquitted from the charge of the offence punishable under Section 323 of IPC, whereas the conviction and sentence for the offence punishable under Section 325 of IPC were maintained. Being aggrieved with the judgments passed by both the Courts below, 2 Criminal Revision No.2077/2011 the present revision is preferred.

2. The prosecution's case, in short is that, on 22.7.2005 at about 5:00 p.m. in the evening at township Saunsar, the applicant assaulted Pushpa Bai and Jagdish by stick in which the victim Jagdish sustained a grave injury.

3. The applicant abjured his guilt before the trial Court and no defence evidence was adduced.

4. The learned J.M.F.C. after considering the prosecution's evidence convicted the applicant for the offence punishable under Sections 323 & 325 of IPC and sentenced as mentioned above, whereas the appeal filed by the applicant was partly allowed. The conviction and sentence directed for the offence punishable under Section 325 of IPC were maintained.

5. After considering the submissions made by the learned counsel for the applicant, it appears that the offence punishable under Section 325 of IPC is duly proved against the applicant. There is no any reason by which any interference may be done in the conviction directed by the Courts below. So far as the sentence is concerned, the applicant was a youth of 26 years at the time of the incident, who had no criminal past alleged against him. It appears that the quarrel started in a spur of moment and therefore looking to the future of the applicant, it would not be proper to send him into the jail again. Consequently, his jail sentence may be reduced to the period for which he remained in the custody. 3 Criminal Revision No.2077/2011 However, fine may be enhanced from the sum of `1,000/- to the sum of `5,000/-.

6. On the basis of aforesaid discussion, the revision filed by the applicant is hereby partly allowed. The conviction directed for the offence punishable under Section 325 of IPC is hereby maintained but the sentence is reduced to the period which

he has already undergone in the custody by enhancing the fine from a sum of `1,000/- to the sum of `5,000/-. The applicant is directed to deposit the remaining fine amount before the trial Court within two months from today, failing which he shall undergo for six months R.I. in default of payment of fine. If fine amount is deposited, then a sum of `2500/- (Rupees two thousand five hundred) be provided to the victim Jagdish S/o Haridas Bokade, R/o Ward No.15 Gurudev Colony Saunsar, District Chhindwara by way of a compensation.

7. At present, 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.

8. A copy of this order be sent to the trial Court as well as appellate Court for information and compliance alongwith the records. (N.K. GUPTA) JUDGE 25 02.2013 pnkj

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