

Jagar Singh Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Jul-31-2012

Appellant : Jagar Singh

Respondent : The State of Madhya Pradesh

Advocate for Pet/Ap. : Shri. J.L.Soni

Judgement :

IN THE HIGH COURT OF MADHYA PRADESH, JABALPUR SINGLE BENCH :
HONBLE MR. JUSTICE N.K.GUPTA, J.Criminal Appeal No.86/2012 Jagat Singh
VERSUS State of Madhya Pradesh
----- Shri J.L.Soni, counsel for
the appellant. Shri R.P.Tiwari, Public Prosecutor for the State/ respondent.

JUDGMENT

(Delivered on the 31st day of July, 2012) The appellant has preferred this appeal against the judgment dated 17.11.2011 passed by the learned Special Judge, Raisen in Special Case No.39/2009, whereby the appellant was convicted for offence punishable under section 307 of IPC and sentenced for 7 years rigorous imprisonment with fine of Rs.1,000/-. In default of payment of fine, he was to undergo for 3 months' additional rigorous imprisonment.

2. Prosecution's case, in short, is that, on 16.1.2009, Ramshri Bai (P.W.8) had visited the house of her mother Jagrani (P.W.9) at Shyamnagar, Begumganj. At about 6.30 a.m. in the morning, the appellant Jagat Singh came to the house of Jagrani having a knife in his hand and abused the -:- 2 -:- Criminal Appeal No.86 of 2012 victim Jagrani in a bad manner. Thereafter, he assaulted the victim Jagrani by that knife causing injuries on her abdomen, forehead, hips and palm. On her shouting, Bhujbal (P.W.2), Sunil and Krishna Bai came to the spot. The appellant ran away towards Fatehpur. Ramshri Bai took her injured mother Jagrani to the Police Station Begumganj, where she lodged an FIR, Ex.P/5 at about 11 a.m. in the morning. The victim Jagrani was directed for her medico legal examination to the Government hospital, Begumganj. Dr.J.P.Patel (P.W.3) examined the victim Jagrani and found 14 injuries on her person. One injury was caused by sharp cutting weapon, whereas remaining injuries were caused by hard and blunt object. Those injuries were found to be fatal to life. Dr. Patel, gave his examination report, Ex.P/4 and the victim Jagrani was referred to Hamidiya hospital, Bhopal. After due investigation, a charge-sheet was filed before CJM, Raisen, who committed the case to the Special Judge, Raisen because charge-sheet was also filed for offence punishable under section 3 (2) (v) of SC/ST (Prevention of Atrocities) Act.

3. The appellant abjured his guilt. He has stated that Rajkumar, son of the victim Jagrani took wife of the appellant and thereafter, the appellant is falsely implicated in the matter. However, no defence evidence is adduced. -:- 3 -:- Criminal Appeal No.86 o

4. Learned Special Judge after considering the evidence adduced by the prosecution, acquitted the appellant for offence punishable under section 3 (2) (v) of SC/ST (Prevention of Atrocities) Act but, convicted him for offence punishable under section 307 of IPC and sentenced as mentioned above.

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

6. Learned counsel for the appellant submits that the appellant is a first offender, who remained in the custody for more than 3 years and looking to his overt-act his sentence may be reduced to the period, which he has already undergone in the

custody.

7. Learned counsel for the appellant has placed his reliance upon the judgment passed by Hon'ble the Apex Court in case of Ramdas Vs. State of Madhya Pradesh., [(2009) (4) SCC 57].. Also reliance was placed to the judgment passed by Single Bench of Chhattisgarh High Court in case of Rajesh Patwa & Others Vs. State of Chhattisgarh. [(2001) (2) M.P.H.T. 1 (C.G.)]..

8. On the other hand learned Public Prosecutor has submitted that an appropriate sentence is passed against the appellant. -:- 4 -:- Criminal Appeal No.86 o

9. After considering the submissions made by learned counsel for the parties, it appears that the appellant does not challenge the conviction directed against him. It would be apparent from the statements given by the complainant Jagrani (P.W.9) and eye witness Ramshri Bai (P.W.8), timely lodged FIR, Ex.P/15 and injuries caused to the victim as proved by Dr.J.P.Patel (P.W.3) in his report Ex.P/4, that the appellant assaulted the victim by a knife for more than 13 times. Out of the said injuries, injury caused in her abdomen was fatal in nature and therefore, offence under section 307 of IPC is made out against the appellant.

10. So far as the sentence is concerned, it is true that the appellant assaulted for more than 13 times to the victim by a knife. However, only one or two injuries were deep and of fatal nature. The appellant is a first offender, who remained in the custody since 16.1.2009. Under such circumstances, he remained in the custody till today for 3 years, 6 months and 15 days in all. Looking to the judgment passed by the Single Bench of the Chhattisgarh High Court in case of Rajesh Patwa (Supra), the custody period for which the appellant remained in the custody appears to be a sufficient sentence for the offence punishable under section 307 of IPC but, some fine is to be increased, so that the victim may get some compensation in the case. Similarly, -:- 5 -:- Criminal Appeal No.86 of 2012 the view taken by Hon'ble the Apex Court in case of Ramdas (Supra) may also be applied though the appellant has not faced the trial and appeal for such a lengthy period.

11. On the basis of the aforesaid discussion, the appeal filed by the appellant is hereby partly allowed. Conviction directed for offence punishable under section 307 of IPC is hereby maintained but, sentence is reduced to the period, which he has already undergone in the custody but, fine amount is enhanced from a sum of Rs.1,000/- to a sum of Rs.11,000/-. In default of payment of fine, he has to undergo for 2 years' rigorous imprisonment. If fine is deposited then, the complainant would get a sum of Rs.10,000/- by way of a compensation out of that fine amount.

17. Registry is directed to issue a supersession warrant accordingly with a direction that if the appellant deposits the fine amount before the Jail authorities then, he may be released forthwith.

18. Copy of the judgment be sent to the trial Court with its record for information and compliance. (N.K.GUPTA) JUDGE 31 7/2012 Pushpendra

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