

Laddoopeda @ Omprakash Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Jun-25-2013

Appellant : Laddoopeda @ Omprakash

Respondent : The State of Madhya Pradesh

Advocate for Pet/Ap. : Smt. Sushma Pandey

Judgement :

Cr.A.No.1513/2007 25/6/2013: This is a jail appeal received directly and counsel Smt.

Nirmala Nayak was appointed by the Legal Service Authority.

As on date as Smt.

Nirmala Nayak is a Government Advocate she is unable to prosecute the matter.

However, Smt.

Sushma Pandey, learned counsel present in the Court is appointed as a counsel and she is heard on appeal.

Shri Amit Pandey, learned Panel Lawyer appears for the State.

Having heard Smt.

Sushma Pandey, learned counsel for the appellant, even though Smt.

Sushma Pandey tried to emphasize that the allegations against the appellant and offence under Section 333 and 353 IPC is not made out but on a perusal of the statement of witnesses available on record it is seen that the appellant was a member of unlawful assembly and he has actively participated in the assault etc. which took place in unlawful assembly as a result various police officials including Constable Pramod Kumar, Constable Chandrabhan and Hariram have sustained serious injuries.

Available on record are statements of eye witnesses particularly the injured police officer Chandrabhan Dwivedi (P.W.1) implicating the appellant with name, indicating his presence and the fact that appellant along with others was present armed with lathi.

Statement of Chandrabhan Dwivedi (P.W.1) was supported by statement of Ombabu Singh (P.W.2) and there is nothing to disbelieve the statements of these witnesses who are police officials.

Medical evidence also shows that the injuries were sustained by these witnesses as is evident from the statement of Dr.B.B.

Khare (P.W.7). Taking note of the medical evidence available on record Exhibit P/13 and P/14, no case is made out for acquittal of the appellant.

Records indicate that appellant has been convicted to undergo 5 years R.I. for offence under Sections 333 and 353 IPC and on 5.10.2007 his application for suspension of sentence was rejected and record indicate that appellant is in jail since 19.4.2007 when the judgment was pronounced.

That being so, total period of custody of the appellant as on date would be more than the sentence imposed upon him.

Taking note of the aforesaid, it is directed that in case appellant is not released till date, he be released forthwith as he has already undergone the jail sentence, in case he is not required in any other case.

With the aforesaid, this appeal stands disposed of.

c.c.as per rules.

(Rajendra Menon) Judge mrs.mishra

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