

Devendra Kumar Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Apr-17-2013

Appellant : Devendra Kumar

Respondent : The State of Madhya Pradesh

Advocate for Pet/Ap. : Shri. Y.K.Gupta

Judgement :

Criminal Revision No.336/2013 17.04.2013 Shri Y.K.Gupta, counsel for the applicants.

Shri Prakash Gupta, Panel Lawyer for the respondent/State.

As prayed by learned counsel for the parties, heard them finally.

The applicants were convicted for the offences punishable under Sections 294 and 323/34 of IPC vide judgment dated 4.5.2012 passed by the learned J.M.F.C.(Shri Deep Narayan Singh) Waraseoni, District Balaghat in Criminal Case No.30/11 with fine of `300/- and `500/- was imposed upon them respectively.

In criminal appeal no.142/12, the learned 1st Additional Sessions Judge Waraseoni, District Balaghat vide judgment dated 14.2.2013 dismissed the appeal in toto.

Being aggrieved with the aforesaid judgments the applicants have preferred the present revision.

The prosecution's case in short is that on 13.1.2011 at about 7:00 p.m.in the evening, the applicants held the victim Preetam (PW-1) at village Chichgaon (Tahsil Waraseoni District Balaghat) and thereafter, they abused him at public place with the obscene words and also assaulted him by the stick and fists.

The victim had lodged an FIR Ex.P/1 in writing to the S.H.O.Lalbarra and therefore, a case was registered.

The victim Preetam was sent for his medico legal examination to the Community Health Centre Lalbarra, where Dr.

H.S.Rana (PW-9) had examined the victim and gave his report Ex.P/3.

He found swelling on back of his head and also the pain on his right shoulder.

After due investigation, a charges sheet was filed before the trial Court.

The applicants abjured their guilt.

They took a plea that they were falsely implicated in the matter due to political rivalry.

However, no defence evidence was adduced.

The learned J.M.F.C.Waraseoni after considering the prosecution's evidence, convicted and sentenced the applicants as mentioned above, whereas the appeal filed by them was dismissed in toto.

I have heard the learned counsel for the parties.

Learned counsel for the applicants has submitted that the applicant Devendra is a contractual teacher and if he has not been given the benefit of Probation of Offenders Act, then he may lose his job.

Under such circumstances, it is prayed that the fine imposed upon the applicant Devendra may be removed.

After considering the submissions made by the learned counsel for the parties and looking to the facts and circumstances of the case, it appears that the victim Preetam (PW-1) and the eyewitnesses namely Prem (PW-3). Bhajan Lal (PW-4) and Ajesh Mishra (PW-5) are believable.

Their statements are duly corroborated by timely lodged the FIR Ex.P/1 and the medical report Ex.P/3 proved by Dr.

H.S.Rana (PW-9) therefore, it is proved beyond doubt that the applicants voluntarily caused hurt to the victim Preetam.

They abused him at public place with the obscene words.

The trial Court has rightly convicted the applicants for the offences punishable under Sections 323 and 294 of IPC.

So far as the sentence is concerned, the trial Court has already taken a lenient view against the applicants and therefore prima facie, there is no need to make any interference in the view taken by the trial Court.

However, the applicant Devendra is a contractual teacher and it is possible that if he has not been given the benefit of the Probation of Offenders Act, then he may lose his job.

Under such circumstances, it would be proper to make such an arrangement in the sentence passed against the applicant Devendra, whereas there is no necessity to change the sentence imposed upon the applicant Surendra.

On the basis of aforesaid discussion, the revision filed by the applicant Surendra is hereby dismissed, whereas the revision filed by the applicant Devendra Kumar is hereby partly allowed.

His conviction for the offence punishable under Sections 323 and 294 of IPC is hereby maintained but instead of imposing the fine, he be released on probation

after giving due admonition under Section 3 of the Probation of Offenders Act so that he may not lose his job.

However, the fine imposed upon the applicant Devendra shall be counted as compensation and that sum be given to the victim Preetam.

The trial Court shall provide a sum of `800/- to the victim Preetam out of sum deposited by the applicant Devendra.

Copy of this order be sent to the appellate Court as well as trial Court for information and compliance.

C.C.as per rules.

(N.K.GUPTA) JUDGE pnkj

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