

Arjun Singh Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Jun-29-2012

Appellant : Arjun Singh

Respondent : The State of Madhya Pradesh

Advocate for Pet/Ap. : Shri. Ajay Mishra

Judgement :

1 Criminal Appeal No.300/2008 HIGH COURT OF MADHYA PRADESH
JABALPUR Criminal Appeal No.300/2008 Arjun Singh and others Vs. State of
Madhya Pradesh

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

Name of counsel for the parties: Shri Manish Datt, senior counsel with Shri Ajay Mishra, counsel for the appellants. Shri G.S. Thakur, Panel Lawyer the respondent/State. Shri R.K. Yadav, counsel for the complainant.

JUDGMENT

(Passed on 29th day of June, 2012) The appellants have preferred this appeal against the judgment dated 28.1.2008 in S.T. No.184/2006 passed by the learned 3rd Additional Sessions Judge (Fast Track), Khandwa, whereby the appellants were convicted for the offences punishable under Sections 326/34 and 452 of IPC

and sentenced for three years R.I. with fine of `1,000/- and one year R.I. with fine of `500/-. In default of payment of fine, each of them has to undergo for three months R.I. and one month R.I. respectively.

2. Prosecution's case in short is that on 13.7.2006, when the complainant Jairam (PW-1) was sitting in his house at village Salai, Police Station Dhangaon, District Khandwa then, the appellants came to his house for quarreling due to dispute of payment of 2 Criminal Appeal No.300/2008 transportation charges of the tractor. The appellant Arjun held an axe, Jaipal held a stick and the appellant Rajesh had no weapon. They assaulted the victim Jairam in a brutal manner. The witnesses namely Sugna Bai (PW-2) and Nirbhay Singh (PW-3) saved the victim Jairam, thereafter the appellants left the spot. The victim Jairam was taken to the Police Station, Dhangaon at about 8:45 p.m. and he had lodged an FIR Ex.P/1. Thereafter, he was taken to the hospital for his examination and treatment. Dr. D.C. Arya (PW-10) examined the victim Jairam on 13.7.2006 and gave a report Ex.P/14. He found three injuries to the victim Jairam. One on left elbow, second on near the right eye and third on the left leg. He referred the victim for x-ray examination. Dr. A.N. Bajpai (PW-7) at District Hospital Khandwa examined the victim Jairam with x-ray plates and found that there was a fracture in his left elbow. After due investigation, the police Dhangaon filed a charge sheet before the J.M.F.C. Khandwa and case was duly committed to the Sessions Judge, Khandwa and it was transferred to the 3rd Additional Sessions Judge, Khandwa.

3. The appellants abjured their guilt. They have stated that they were falsely implicated in the matter due to political enmity. In support, Sub-inspector Smt. Maina Patel (DW-1) was examined to show that a case was registered in the year 2006 against the victim Jairam and one Raju on the basis of FIR lodged by one Ganga Bai.

4. After considering the evidence adduced by both the parties, learned 3rd Additional Sessions Judge, Khandwa acquitted the appellants from the charges of offences punishable under Sections 3 Criminal Appeal No.300/2008 307/34 and 294 of IPC but convicted them for the offences punishable under Sections 326/34 and 452 of IPC and sentenced them as mentioned above.

5. I have heard learned counsel for both the parties.

6. Learned senior counsel for the appellants has submitted that there was a dispute between the parties for a longer period but at present, a compromise took place between them and the compromise was submitted before this Court, which was duly verified on 22.2.2012. Though, the offences punishable under Sections 452 and 326 of IPC are not compoundable but looking to the future pleasant relations of both the parties, the appellants may not be sent to jail again, otherwise the effect of compromise shall be vanished. They have remained for 13 days in the custody during the trial and therefore, it is prayed that the sentence may be reduced to the period, which they have already undergone in the custody.

7. After considering the submissions made by learned counsel for the parties, it is apparent that the appellants do not challenge the conviction directed against them and therefore, there is no need to discuss the evidence for conviction of the appellants. As far as the sentence is concerned, it is true that the offences punishable under Sections 326 & 452 of IPC are not compoundable. However, a compromise took place between the parties. The alleged incident took place in the year 2006 and therefore, the appellants have suffered the trial as well as appeal for six years and each of them remained in the custody for 13 days during the trial and fine amount was already 4 Criminal Appeal No.300/2008 deposited by them. If the compromise takes place between the parties then it is expected that both the parties will forgive to each other and forget to take the revenge from each other. Under such circumstances, if the appellants send to the jail again then effect of the compromise will go away. Hence, looking to the compromise between the parties, this is a fit case in which the sentence may be reduced to the period, which they have already undergone in the custody.

8. On the basis of the aforesaid discussion, the present appeal filed by the appellants is hereby partly allowed. The conviction directed for the offences punishable under Sections 326/34 and 452 of IPC is hereby maintained. There is no change in the fine amount imposed upon the appellants but the jail sentence is reduced to the period, which they have already undergone in the custody.

9. Presence of the appellants is no more required hence, it is directed that their bail bonds etc shall stand discharged.

10. Copy of the judgment be sent to the trial Court for information and compliance.

(N.K. GUPTA) JUDGE 29 06.2012 pnkj

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