

Kapil Thakur Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Oct-08-2013

Appellant : Kapil Thakur

Respondent : The State of Madhya Pradesh

Judgement :

HIGH COURT OF MADHYA PRADESH AT JABALPUR Criminal Appeal
No.158/2010 Appellant: Kapil Thakur S/o Hukum Singh Vs. Respondents:

1. State of M.P. Through Police Station Mandideep District Raisen 2. K.K.Sharma
S/o Prem Narayan Present: Hon. Shri B.D.Rathi
----- For appellant
: Shri Rajnish Choubey, Advocate For the respondent no.1 : Shri Yogesh Dhande,
Government Advocate For respondent no.2 : None

ORDER

(08/10/2013) This appeal has been preferred under Section 454 of the Code of Criminal Procedure (for short the Code.), being aggrieved with the order dated 27.10.2009 passed by the I Additional Sessions Judge, Raisen, in S.T. No.142/2007, whereby an amount of Rs.1,000,00/- (Rupees One Lac) seized from the appellant has been refunded to respondent no.2 (complainant) though, by the same judgment, the appellant has been acquitted of the offences punishable under Sections 395 and 323 of the Indian Penal Code (for short the IPC.).

2. Prosecution case, in brief, is that on 26/3/07 between 8.30 to 9 p.m., appellant along with co-accused persons, not only wrongfully confined Deviram Dhruve, Kamlesh, Dinesh and Raju Chouhan at Paras Electricals, Mandideep, by putting them under fear of death, but also induced them to part with 1124 Kgs of Copper worth Rs. 5 lacs and two mobile phones and in the process of committing the 2 Cr.A. No.158/2010 said dacoity, caused injuries to Deviram and Kamlesh. During the course of investigation, the whole copper weighing 1124 kgs, which was looted, was seized vide seizure memo (Ex.P/24) dated 3/4/07 and same was ordered to be returned to respondent no.2 vide direction contained in para 21 of the judgment. In this way, entire looted property was recovered.

3. After taking into consideration the evidence of seven prosecution witnesses, learned trial Court acquitted all the accused persons including appellant of the charges. From the appellant cash amount of Rupees One Lac was seized vide seizure memo (Ex.P/9) dated 19/3/07. It was not the property which was subject matter of the offence, but, the same was also ordered to be refunded to respondent no.2 as mentioned in para 21 of the judgment by the trial Court by mentioning the reason that in memorandum (Ex.P/7) it was admitted by the appellant that he had received the above mentioned one lac rupees by selling out the copper. However, on one hand, this part of the memorandum was not admissible, while on the other, the entire looted copper weighing 1124 Kgs, has already been recovered.

4. That apart, appellant has already been acquitted of the charges. Therefore, the order of disposal of property of Rs.1 lacs is illegal and cannot be sustained and the same is accordingly set aside. As this amount of Rupees One Lac was seized from the appellant, it is directed that the same be refunded to him.

5. In the result, the appeal stands allowed. Copy of this judgment along with record of the trial Court be sent to the trial Court for information and compliance. (B. D. RATHI) JUDGE0810/13 (and)