

Bechania Vs. State of M.P.

Bechania Vs. State of M.P.

SooperKanoon Citation : sooperkanoon.com/505153

Court : Madhya Pradesh

Decided On : Apr-11-2005

Reported in : 2005CriLJ3413; 2005(3)MPHT377

Judge : A.K. Awasthy, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 436

Appeal No. : Criminal Appeal No. 1273 of 2002

Appellant : Bechania

Respondent : State of M.P.

Advocate for Def. : P. Newalkar, Adv.

Judgement :

A.K. Awasthy, J.

1. Appellant/accused has filed the appeal against the judgment and order dated 19-9-2002 in S.T. No. 353/2001 passed by 1st Additional Sessions Judge, Alirajpur, District Jhabua under Section 436 of the IPC for the rigorous imprisonment of 3 years and fine of Rs. 500/- and in default of payment of fine further simple imprisonment of 3 months.

2. The prosecution case is that on the intervening night of 13-14/12-2000 13-14/12-2000 at Village Badivekal the accused has put on fire the hut of complainant Mirlibai (P.W. 3) and on her shouts Dakaria (P.W. 1) and other villagers came there and accused ran away. FIR Ex. P/10 was lodged on next day on 14-12-2000 at about 10 a.m. and the Investigating Officer has estimated vide Ex. P/5 the loss of Rs. 25,000/- and after investigation, the charge sheet was filed against the accused.

3. The accused has abjured the guilt and pleaded his false implication due to enmity. No witness in defence was examined by the accused.

4. The appellant has assailed the conviction on the ground that the Court erred in relying on the testimony of Mirlibai (P.W. 3) and as such, the appellant should be acquitted.

5. Mirlibai (P.W. 3) has stated that in the mid night she heard the noise of breaking the roof of her house and she saw that the accused was putting the fire therein. Mirlibai (P.W. 3) has further stated that on hearing the noise Dakaria (P.W. 1), Ramsingh (P.W. 2) and others reached there and they saw the accused running away. She apprised them about causing of the fire by the accused. Mirlibai (P.W. 3) has stated that she was not having any strained relations with the accused on account of the marriage of the daughter. While in her FIR Ex. P/3 and Police Statement Ex. D/I she has alleged that the accused was interested in the marriage of her daughter with her husband (husband of Mirlibai (P.W. 3)). From the FIR it is clear, that at the time of the incident Mirlibai (P.W. 3) was with her son Persingh (P.W. 6). Persingh (P.W. 6) has stated that when he was sleeping with his mother, he saw the accused putting the house on fire. There is nothing to corrode the credibility of Prem Singh. His statements are trustworthy and reliable. The other witnesses of the incident Dakaria (P.W. 1), Ramsingh (P.W. 2), Jamda (P.W. 4), Bhanu (P.W. 5) have turned hostile and they have not supported the prosecution story. However, from the statement of Mirlibai (P.W. 3) and Persingh (P.W. 6) it is proved that the accused have committed the mischief by putting the house on fire and causing the damage to the extent of Rs. 25,000/-.

6. Appellant is the first offender and Scheduled Tribe of 'Bhil Community. He is an old man of more than 50 years. The appellant is facing the trial for more than 4, 1/2. years. In these circumstances, the sentence of imprisonment is reduced to sentence of only 2 years.

7. The appeal is partly allowed on the point of sentence. The conviction and the sentence under Section 436 of the IPC and the fine of Rs. 500/- is maintained but the sentence of 3 years is reduced to only 2 years. The period of custody of the appellant accused in the Jail be remitted in the sentence.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com