

Murali Devi Vs. State of Rajasthan and ors.

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Court : Rajasthan

Decided On : Jan-15-2009

Reported in : RLW2009(4)Raj3348

Judge : Mahesh Chandra Sharma, J.

Appellant : Murali Devi

Respondent : State of Rajasthan and ors.

Disposition : Petition dismissed

Judgement :

Mahesh Chandra Sharma, J.

1. This revision petition has been filed by petitioner Murlidevi wife of complainant, against the order dated April 22, 2006 of Judicial Magistrate Shahpura (Distt. Jaipur) in Criminal Case No. 243 of 2001 whereby accused respondents Richpal, Mahendra Kumar and Vikas were convicted under Sections 352 and 451 IPC but were given the benefit of Section 36 of the Probation of Offenders Act. Accused respondents Mahendra Kumar and Vikas as they were students were further given the benefit of Section 12 of the Probation of Offenders Act. All the accused were acquitted of the charge under Section 323 IPC.

2. Brief facts of the case are that on June 26, 2001, Ramjilal husband of petitioner filed a complaint before the Police Station Manoharpur with the averments that near his Chabutara some sand was lying and when the accused respondents tried to carry the said sand the complainant obstructed them and then the accused respondents assaulted him and used the abusive language. The Police registered a case for offence under Sections 451 and 323 IPC. Thereafter challan was filed against the accused respondents and the trial Court framed charges against them and during the course of trial the prosecution produced 8 witnesses and exhibited three documents. The accused respondents were examined under Section 313 Cr.P.C. and produced evidence of two witnesses. After hearing both the parties, the trial Court convicted accused respondents Richpal, Mahendra Kumar and Vikas under Sections 352 and 451 IPC but were given the benefit of Section 3 of the Probation of Offenders Act. Accused respondents Mahendra Kumar and Vikas as they were students were further given the benefit of Section 12 of the Probation of Offenders Act. All the accused were acquitted of the charge under Section 323 IPC, Aggrieved against the order dated April 22, 2006, the petitioner filed the present revision petition.

3. The learned Counsel for the petitioner argued that the Court below without going through the entire record and evidence wrongly acquitted the accused-respondents for offence under Section 323 and further while convicting the accused respondents Richpal, Mahendra Kumar and Vikas under Sections 352 and 451 IPC given the benefit of Section 3 of the Probation of Offenders Act. The Court below while passing the impugned order did not consider the statements of witnesses in correct perspective. Thus the judgment of the Court below is liable to be set aside and the accused respondents should be convicted for the offences charged against them. The trial Court has not properly appreciated the evidence came on record and produced by the prosecution.

4. The learned Counsel for the accused respondents and the learned Public Prosecutor on the other hand opposed the submissions of learned Counsel for the petitioner and stated that the Court below after considering all the evidence, documents and record passed the order of acquittal and the accused respondents were released under Section 3 of the Probation of Offenders Act. There is no

illegality or infirmity in the order passed by the Court below.

5. I have heard the learned Counsel for the parties and gone through the entire record. The judgment passed by the Court below is perfectly according to law and there is no illegality or infirmity in the same. The Court's attention was drawn on the judgment of the Hon'ble Supreme Court in *Umrao v. State of Haryana and Ors.* : 2006 10 SCC 136 in which their Lordships of the Supreme Court has observed in para 26 that 'it is now well settled that if two views are possible, the appellate Court should not interfere with the judgment of acquittal passed by the Court below.'

6. Thus, the order passed by the Court below does not call for any interference in revisional jurisdiction and the revision petition stands dismissed.

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