

Mangilal Vs. State

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Court : Rajasthan

Decided On : May-03-2000

Reported in : 2000(2)WLN424

Judge : Bhagwati Prasad, J.

Appeal No. : S.B. Cri Revision Pet. No. 251 of 1995

Appellant : Mangilal

Respondent : State

Judgement :

Bhagwati Prasad, J.

1. The present revision petition has been filed against the judgment dated 11.8.1995 passed by the learned Sessions Judge, Jalore in criminal appeal No. 2/1986 whereby the accused petitioner No. 1 Mangilal has been convicted under Section 326 IPC and sentenced to one year R.I. and fine of Rs. 3000/-; petitioner No. 5 Daya and petitioner No. 6 Kuiya have been convicted under Section 325 IPC and sentenced to six months R.I. and fine of Rs. 1000/- each and petitioner No. 2 Achla Ram, petitioner No. 3 Puriya, petitioner No. 4 Shankariya, petitioner No. 5 Daya, petitioner No. 6 Kuiya and petitioner No. 7 Vagta have been convicted under Section 323 IPC and sentenced to six months S.I. and fine of Rs. 1000/-.

2. After arguing on merits of the case for some time, learned Counsel for the petitioners does not wish to challenge the conviction and states that instead of requiring the accused petitioners to serve out the complete substantive sentence, it would be appropriate that they may be asked to pay compensation to the injured person.

3. I have heard learned Counsel for the parties and perused the material on record.

4. Looking to the facts and circumstances of the case coupled with the fact that the accused petitioners were sentenced in the year 1985, the incident is of the year 1982, and the revision is being heard in the year 2000, this Court feels persuaded that instead of maintaining the substantive sentences of imprisonment, the accused-petitioners' sentences may be modified in the following terms:

1. Petitioner No. 1 Mangia alias Mangilal:

5. This petitioner was convicted under Section 326 IPC and sentenced to one year R.I. and fine of Rs. 3000/-. Looking to the facts and circumstances, petitioner Mangia is liable to be saddled with financial liability and he should be ordered to pay compensation to the injured Bhima s/o Rama. Therefore, it is ordered that the accused petitioner will deposit a sum of Rs. 15,000/- with the trial court within a period of three months from today to be paid to the injured Bhima in this case. The amount shall be paid by the learned trial court to the victim. In case the amount is not deposited, the accused petitioner shall undergo the sentences recorded against him by the learned trial below. If the amount is paid then the sentence of imprisonment shall be deemed to have been altered to the jail term already undergone. He will not be required to undergo any further imprisonment.

2. Petitioner No. 2 Achla Ram S/o Daya

6. The accused petitioner No. 2 Achla Ram was convicted under Section 323 IPC and fine of Rs. 1000/-. At the time of incident, the accused was 21 years of age. Right from the beginning, he is keeping peace and good behaviour. Looking to the facts and circumstances, petitioner No. 2 is ordered to be given benefit of Section

4 of the Probation of Offenders Act, 1958. He should execute a bond for keeping peace and be of good behaviour for a period of one year. However, the petitioner will pay compensation for a sum of Rs. 1000/- to the injured Kuiya Ram. In the case, compensation as ordered is not paid, the accused petitioner shall undergo the sentence as awarded by the court below.

3. Petitioner No. 3 Puriya S/o Daya:

7. The petitioner was convicted under Section 323 IPC and fine of Rs. 1000/-. He will be released for the period already undergone. However, the sentence of fine is maintained and he shall deposit Rs. 1000/- to be paid to injured Kuiya Ram as compensation. The amount shall be paid by the learned trial court to the victim. In case the amount is not deposited, the accused petitioner shall undergo the sentences recorded against him by the learned court below. If the amount is paid then the sentence of imprisonment shall be deemed to have been altered to the jail term already undergone. He will not be required to undergo any further imprisonment.

4. Petitioner No. 4 Shankariya S/o Vana:

8. The petitioner was convicted under Section 323 IPC and sentenced to six months S.I. and a fine of Rs. 1000/-. He will be released for the period already undergone. Sentence of fine is maintained and he shall deposit Rs. 1000/- to be paid to injured Balu as compensation. The amount shall be paid by the learned trial court to the victim. In case the amount is not deposited, the accused petitioner shall undergo the sentences recorded against him by the learned trial below. If the amount is paid then the sentence of imprisonment shall be deemed to have been altered to the jail term already undergone. He will not be required to undergo any further imprisonment.

5. Petitioner No. 5 Daya S/o Poonma:

9. The petitioner was convicted under Section 325 IPC and sentenced to six months and fine of Rs. 1000/- and he was also convicted under Section 323 IPC and sentenced to six months' S.I. and a fine of Rs. 1000/-. The petitioner was 60

years of age at the time of occurrence. Right from the beginning, he is keeping peace and good behaviour. Looking to the facts and circumstances, petitioner No. 5 is ordered to be given benefit of Section 4 of the Probation of Offenders Act, 1958. However, the petitioner will pay compensation for a sum of Rs. 1,000/- to the injured Smt. Phuphi alias Pukhi and fine of Rs. 1000/- to Rama P.W. 2 respectively. In case, compensation as ordered is not paid, the accused petitioner shall undergo the sentence as awarded by the court below.

6. Petitioner No. 6 Kuiya S/o Kana:

10. The petitioner was convicted under Secs.. 325 and 323 IPC and sentenced to six months and fine of Rs. 1000/- each under both the counts. Looking to the facts and circumstances, petitioner be released for the period already undergone. The sentence of fine awarded on both the counts is maintained which is to be paid as compensation to the injured person namely Kuiya Ram. The amount shall be paid by the learned trial to the victim. In case the amount is not deposited, the accused petitioner shall undergo the sentences recorded against him by the learned trial below. If the amount is paid then the sentence of imprisonment shall be deemed to have been altered to the jail term already undergone. He will not be required to undergo any further imprisonment.

7. Petitioner No. 7 Vagta S/o Shri Kana:

11. The petitioner was convicted under Section 323 IPC and sentenced to six months and fine of Rs. 1000/-. However, the sentence of fine is maintained. The amount so deposited be paid to the injured P.W. 9 Narayan. He will be released for the period already undergone. The amount shall be paid by the learned trial court to the victim. In case the amount is not deposited, the accused petitioner shall undergo the sentences recorded against him by the learned trial below. If the amount is paid then the sentence of imprisonment shall be deemed to have been altered to the jail term already undergone. He will not be required to undergo any further imprisonment.

12. In the result, while maintaining the conviction of the petitioner, the revision is partly allowed as indicated above.

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