

State of Madhya Pradesh. Vs. Narayan Singh, and anr.

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Court : Madhya Pradesh Jabalpur

Decided On : Jul-09-2010

Judge : U.C.Maheshwari, J.

Acts : SC/ST (Prevention of Atrocities) Act - Section 3(1)(x) ; [Indian Penal Code \(IPC\), 1860](#) - Sections 294,367,506-II, 323 ;

Appeal No. : M.Cr.R.No. 9317/2009.

Appellant : State of Madhya Pradesh.

Respondent : Narayan Singh, and anr.

Advocate for Pet/Ap. : Shri Akhilendra Singh, Adv.

Judgement :

1. This petition is preferred on behalf of the State of Madhya Pradesh under section 378(III) of the Cr.P.C for grant of leave to appeal being aggrieved by the judgment dated 10.6.09 passed by the Special Judge, Panna in Special Case No.1/09 whereby the respondents have been acquitted from the charges under section 294,367,506-II of the IPC and under section 3(1)(x) of the SC/ST (Prevention of Atrocities) Act. It is noted that while acquitted the respondents from the aforesaid offence they were convicted and sentenced under section 323 of the IPC.

2. The facts giving rise to this petition in short are that on dated 17.8.2008, early in the morning, some quarrel took place between Vimla the wife of complainant

Chhote Choudhary and Narayan Singh, on which, said complainant Chhote after lodging the report with some police station at Panna was returning to village Badagaon. On the way near Bhagesur, he was anticipated by the respondents. They abused him with filthy languages and also beaten him by kicks and fists. They also tried to throw stone on his head. He was also asked by them to produce the compromise in the reported matter with criminal threat to kill him. Thereafter the complainant was taken by them on a motorcycle at their residence where at the instance of father Pritam Singh, he was again beaten by respondent No.1 Narayan Singh, on which, in order to save himself, he ran away and entered in the house of Jagdish Singh where he was followed by respondent Narayan Singh with abuses and criminal threats. However, he was rescued by Jagdish and Hardev Singh. Soon after the incident, the matter was reported to the Police Station Tribal Welfare Panna. After registering the offence and holding the investigation on establishing the prima facie circumstance of the alleged offence, respondents were charge-sheeted for the above-mentioned offence.

3. On framing the charges, they abjured the guilt, on which, the trial was held in which as many as seven witnesses were examined by the prosecution while two witnesses have been examined on behalf of the defence. On appreciation of the same, taking into consideration that the story put forth by the complainant has not been supported by any independent source for the offence under section 294, 367, 506-II of the IPC and section 3(1)(x) of the SC/ST (Prevention of Atrocities) Act, the respondents were acquitted while they were convicted under section 323 of the IPC as stated above.

4. I am not apprised by the applicant's counsel that any appeal against conviction of the respondents under section 323 of the IPC is pending before this court. He categorically stated that only State has filed this petition against the acquittal of the respondents in the above mentioned sections.

5. Learned State counsel by referring the deposition of Chhotelal (P.W.1 the complainant and victim) and Jagdish Singh (P.W. 6) said that in view of their deposition there is sufficient circumstance to convict the respondents in the above mentioned sections in which they have been acquitted by the trial court. According

to him the story put forth by the complainant has been supported by Jagdish Singh and such evidence has not been properly appreciated by the trial court before acquitting the respondents in the above mentioned offence and prayed for grant of leave to appeal by allowing this petition.

6. Having heard the State counsel, I have carefully gone through the record of the trial court and also perused the impugned judgment. True it is that on recording the deposition, the complainant Chhotelal (PW 1) has categorically narrated the incident against the respondents as it was stated by him in the FIR (Ex.P/1) but according to such deposition the alleged incident took place on the way and outside the village which was not in the public view and presence of any witness on such spot has also not been proved by him. On perusing the entire deposition, it is apparent that at any stage he has not stated that such incident was committed by the respondents with intention to humiliate him on account of his caste covered by the SC/ST (Prevention of Atrocities) Act. The story put forth by him that he was abducted by the respondents or was subjected to any criminal threat with abuses have not been supported by any other independent source of the evidence. So far the deposition of Jagdish (PW 6) on which the state counsel has relied is concerned, it is suffice to say that he has not stated any thing with respect of the incident. He stated only that before 2-3 months complainant Chhote came to him and told that he has been beaten by Narayan and others, on which, he gave him shelter in his house. Thereafter, he remained there for whole night and in the morning went away and thereafter such witness turned hostile. So, it is apparent that the story put forth by the complainant has not been proved by any independent source of the evidence. It is apparent fact on record from the FIR and the other papers that there was some earlier enmity between family of the complainant and the respondents and, in such circumstances, in view of the law laid down by the Apex Court in the matter of Bir Singh and others v. The State of Uttar 4

Pradesh-AIR 198 SC 59, the persons cannot be convicted unless such story of the complainant is supported by any independent source of the evidence.

7. Apart the above, it is settled proposition of law that on appreciation of the available evidence if two view are possible then the court is bound to adopt the

view which is favorable to the accused and, in such premises also, out of such two views if one favorable extending acquittal, has already been adopted by the trial court then mere for replacing another view, this petition cannot be allowed for grant of leave to appeal as prayed. My such view is fully fortified by the decision of the Apex Court in the matter of Harchand Singh and another v. State of Haryana- AIR 1974 SC 344.

8. In view of the aforesaid, the trial court has not committed any error or perversity in acquitting the respondents from the offence under section 294,367 and 506-II of the IPC and section 3(1)(x) of the SC/ST (Prevention of Atrocities) Act, therefore, I am of the considered view that the impugned judgment does not require any consideration. Pursuant to it, I am not inclined to grant leave to appeal against acquittal as prayed by the state counsel. Resultantly, this petition deserves to be and is hereby dismissed at the stage of motion hearing.

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