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Court : Madhya Pradesh Jabalpur

Decided On : Feb-11-2011

Judge : G.S. Solanki, J.

Acts : The Indian Penal Code (IPC), 1860 - Sections 148, 307, 149, 325, 149, 324, 149, 323, 149 ; Code of Criminal Procedure (CrPC) 1973 - Section 374(2) ;

Appeal No. : Criminal Appeal No. 398/2010.

Appellant : Ramesh and Ohers.

Respondent : The State of Madhya Pradesh.

Advocate for Def. : Shri Raman Patel, Adv.

Advocate for Pet/Ap. : Shri A.K. Paroha, Adv.

Judgement :

1. Learned First Additional Sessions Judge Damoh has passed the impugned judgment dated 24.2.20104 in Sessions Trial No. 234/2008 thereby appellants have been convicted under Section 148, 307/149, 325/149, 324/149 and 323/149 of Indian Penal Code and sentenced to undergo RI for 1 year, RI for 3 years and fine of Rs., 1,000/-, RI for 2 years and fine of Rs. 500/-, RI for 1 year and RI for 3 months, with default stipulations, in lieu of fine, respectively.

2. Being aggrieved, the appellants have preferred this appeal under Section 374 (2) of Code of Criminal Procedure.

3. The prosecution case in short is that on 24.4.2008 at about 6 p.m., waste water of the house of accused/appellant Ramlal was flowing in front of the house of complainant Kailash Patel (PW1). Kailash Patel objected the same. At this juncture, appellants Ramesh having a farsa, Hari @ Hargovind having a farsa, Bhajan and Ramlal having axe and Rupabai having a danda came to the spot and abused complainant Kailash and they assaulted Ram Kripal (PW1), Maltibai (PW12), Gomtibai (PW13). They were rescued by Ramcharan (PW17), Lachhu @ Laxman and Ramgopal @ Tandon (PW16). Complainant Kailash lodged the report Ex.P/11 at police station Hata. Injured persons were sent for medical examination. Dr. R.P. Kori (PW20) treated them and prepared their MLC reports.

4. During investigation, appellants were arrested and charge-sheeted. Case was committed for trial to the Sessions Court.

5. Learned trial Court framed the charges under Sections 452, 148, 307/149, 325/149, 324/149, 323/149 and 506-II of IPC against the appellants. Appellants abjured their guilt and pleaded that they have been falsely implicated.

6. On appraisal of evidence on record, trail Court acquitted the appellants/accused persons to the charges under Sections 452 and 506-II of IPC, but convicted and sentenced, as mentioned hereinabove.

7. Learned counsel for the appellants submitted that complainant/injured persons and appellants/accused persons are the resident of same village, they are neighbour, therefore, they entered into a compromise and settled their disputes and living peacefully. He further submitted that except an offence under Section 307 of IPC, all other offences are compoundable. He further submitted that trial Court has failed to appreciate the evidence regarding the injury caused to Ramkripal (PW1). Injury was simple in nature and prosecution failed to prove that injury was dangerous to life. In these circumstances, at the most offence under Section 324 of IPC said to have been proved. Incident took place on 24.4.2008, at that time when offence under Section 324 of IPC was also compoundable, therefore, he prays that appellants/accused persons may be acquitted from all the offences levelled against them.

8. On the other hand, learned counsel for the State justified and supported the impugned judgment and finding of the trial Court.

9. I have perused the impugned judgment, evidence and the other materials on record.

9. On perusal of statements of Ramkripal (PW1), complainant Kailash (PW11) and Dr. R.P. Kori (PW20), it reveal that the incised wounds caused to Ramkripal were grievous in nature. He was advised for X-ray. No bony injury was found on his head. No other circumstance is proved on record to the effect that these injuries were dangerous to life. In these circumstances, charge under Section 307 of IPC cannot be said to be proved and appellants are acquitted to the charge under Section 307/149 of IPC, instead they are convicted under Sections 304/149, 325/149, 324/149, 323/149 and 148 of IPC. All offences are compoundable. Appellants/complainant are resident of same village, they are neighbour, they settled their disputes amicably and they are living peacefully. Considering this aspect compromise filed by complainant, injured persons and appellants are hereby verified and accepted and consequently, appellants/accused persons are acquitted to the charges levelled against them under Sections, 148, 323/149, 324/149 (on two counts), 325/149 of IPC.

10. Thus, the appeal is finally disposed of, as mentioned above.

11. Appellants/accused are on bail, their bail bonds and surety bonds stand cancelled.

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