
(2012) 03 MP CK 0098

In the Madhya Pradesh High Court

Case No : Criminal Revision No. 176 of 2012

Anis Khan, Saifuddin, Ashik Khan and Hakim Khan

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 02-03-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 357, 397, 401
Penal Code, 1860 (IPC) — Section 323, 325, 34

Citation : (2012) 03 MP CK 0098

Hon'ble Judges : S.R. Waghmare, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Mrs. S.R. Waghmare, J.—This is a revision petition u/s 397 read with 401 of the Cr.P.C., petitioners Anis Khan, Saifuddin, Ashik Khan and Hakim Khan have challenged the judgment dated 30.1.2012 passed by the Additional Sessions Judge in Criminal Appeal No.220/2010 whereby the petitioners have been convicted for offence u/s 325/34 of the IPC and sentenced to undergo six months rigorous imprisonment with fine of Rs.1,000/-each. However, the appellants have been acquitted from the offence u/s 323/34 of the IPC.

2. Brief facts necessary for elucidation are that on 9.3.2007 the complainant Sayyed Khan along with one Shakeel Khan was coming from the village Richhadi Jod, Kurawar Road towards his village, at that time all the petitioners were wielding lathis and stopped the complainant Sayyed Khan and Shakeel Khan and they assaulted them and also abused them. The matter was reported at the police station. After completion of investigation, the accused were duly charged and committed to their trial.

3. Accused/petitioners abjured their guilt and stated that they have been falsely implicated in the matter. On the basis of the evidence on record, the trial Court has convicted and sentenced all the petitioners as herein above indicated. The Appellate Court also upheld the findings. Being aggrieved, the petitioners have

filed the present revision petition.

4. Learned Counsel for petitioners have urged the fact that the petitioners have been falsely implicated in the matter. Moreover the dispute developed all of a sudden. Counsel further submitted that the conviction is contrary to the provisions of law. The trial Court has failed to appreciate the medical evidence in its proper perspective and there are material omissions and contradictions in the testimony of the crucial prosecution witnesses P.W.1 Sayyed Khan and P.W.2 Shakeel Khan, which have not been considered by the trial Court. Hence, the petition deserves to be allowed and the judgment of trial Court be set aside. In the alternative Counsel submitted that even if this Court is also satisfied regarding the conviction, the accused/petitioners had been in custody for approximately 32 days and the custodial sentence may be reduced to the period already undergone.

5. Learned Counsel for respondent/State per contra stated that the judgment of the trial Court is in accordance with law and does not require any interference and the petition filed by the petitioners be dismissed.

6. On considering the above submissions, the impugned judgment is based on valid and cogent reasons and proper marshalling of evidence and no infirmity can be found with the conviction by the impugned judgment of the trial Court. I have no hesitation in upholding the conviction for offence under Sections 325/34 of the IPC against the accused/petitioners. However, the alternative prayer of the Counsel for the petitioners being limited and reasonable, is allowed, in the interest of justice and the custodial sentence is reduced to the period already undergone. The fine amount is however, enhanced further by Rs.3,000/-each and out of this amount, Rs.10,000/-in all shall be given to complainant/injured Sayyed Khan as compensation u/s 357 of the Cr.P.C. within a period of one month from the date of this order. On failure to pay the fine within the stipulated period and all the petitioners shall undergo the remaining sentence as directed by the lower Court.

7. With these directions, the revision is partly allowed to the extent herein above indicated. Petitioners are in jail; they shall be set at liberty forthwith, if not required in any other offence.

8. A copy of this judgment be sent to the concerned lower Court for compliance.