
(2012) 11 MP CK 0125
In the Madhya Pradesh High Court
Case No : Criminal Appeal No. 990 of 2012

Ashok @ Sonna

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 06-11-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 307

Citation : (2012) 11 MP CK 0125

Hon'ble Judges : N.K. Gupta, J

Bench : Single Bench

Advocate : Rahul Tripathi, for the Appellant; G.S. Thakur, PL for the State, for the Respondent

Judgement

Hon'ble Justice Shri N.K. Gupta

1. The appellant has preferred this appeal against the judgment dated 23.07.2012 passed by the learned Additional Sessions Judge, Amarpatan District Satna in ST. No. 224/2010 whereby the appellant was convicted for the offence punishable u/s 307 of I.P.C. and sentenced for five years rigorous imprisonment and fine of Rs. 1000/- and in default of payment of fine six months rigorous imprisonment was also directed. The prosecution case in short is that on 04-09-11, at about 00:45 A.M. in the morning, the Shri Himmat Singh Parihar, SHO Police Station Amarpatan went to village Lalpur in search of one accused Sonna (the appellant). When a raid took place, the appellant assaulted the police force by firing from a gun. No injury was sustained to any police officer. Shri Himmat Singh Parihar did one fire from his revolver in right of private defence, then the appellant ran away but thereafter, he was caught red handed. FIR was written by the SHO, Himmat Singh Parihar and a case was registered. After due investigation, a charge-sheet was filed before the J.M.F.C., Amarpatan Satna who committed the case to the Sessions Judge, Satna and ultimately it was transferred to the learned Additional Sessions Judge, Amarpatan, Satna.

2. The appellant abjured his guilt. He did not take any specific plea. He has

stated that he had already surrendered before the police in the previous case, and hence there was no any reason that the SHO concerned could visit the house of the appellant. No injury was sustained by any one, therefore, the police could not prove that any fire was made by the appellant. However, no defence evidence was adduced.

3. The learned Additional Sessions Judge after considering the prosecution evidence convicted the appellant for the offence punishable u/s 307 of IPC and sentenced as mentioned above.

4. I have heard the learned counsel for the parties.

5. After considering the submissions made by the learned counsel for the parties and looking to the facts and circumstances of the case, it is apparent that the appellant does not want to challenge the conviction directed against him but he prays for reduction of the sentence. Learned counsel for the appellant has submitted that the appellant was a youth of 27 years of age at the time of the incident who was not convicted for any offence in the past. No police officer had sustained any injury by alleged fire and therefore, the sentence directed by the trial court appears to be harsh. The appellant remained in custody since 04-09-2009 and therefore, he remained in jail for more than 3 years. He has deposited the fine amount before the trial court. Under such circumstances, it is prayed that the sentence may be reduced to the period which he has already undergone in the custody. The contention of the learned counsel for the appellant appears to be correct. Looking to the overt act of the appellant, his age and also to the fact that he was not a previous convict, three years custody is more than sufficient punishment for his crime. His sentence may be reduced to the period which he has already undergone in the custody.

6. On the basis of the aforesaid discussion, the appeal filed by the appellant is hereby partly allowed. The conviction directed against the appellant for the offence punishable u/s 307 of IPC is hereby maintained but, jail sentence is reduced the period which he has already undergone in the custody. No change in the fine amount.

7. The Registry is directed to issue a supersession warrant forthwith so that the appellant may be released. A copy of the judgment be sent to the trial Court along with its record for information and compliance (if any).