

(2021) 09 MP CK 0095

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 5524 Of 2021

Doulat Singh Kushwah

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 21-09-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(1)(r), 3(1)(s), 3(2)(v), 3(2)(va), 14A(2)
Indian Penal Code, 1860 — Section 294, 302, 323

Citation : (2021) 09 MP CK 0095

Hon'ble Judges : Deepak Kumar Agarwal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Deepak Kumar Agarwal, J

None for respondent No.2 though intimated, as per case diary. The appellant has filed this appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the order dated 06.09.2021 passed by trial Court; whereby, application of appellant preferred under Section 439 of Cr.P.C. has been rejected.

Appellant has been arrested on 03.06.2021 by Police Station Myana, District Guna, in connection with Crime No.201/2021 registered in relation to the offences punishable under Sections 323, 294 of IPC, Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, enhanced Section 302 of IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

As per prosecution case, deceased-Gudda Jatav has lodged a report at Police Station Myana, District Guna against the present appellant-Doulat Singh Kushwah stating that on 28.05.2021 at about 4 PM some altercation took place between them. Due to which, at about 8 PM when he was going from

Peethampura to his house the appellant met and abused him on the name of his caste. When he objected, the appellant gave a lathi blow on right side of his head and cheek and blood was oozing out. He also gave a lathi blow on left thigh and back. On his report, a Crime under Sections 323, 294 of IPC, Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act bearing Crime No.201/2021 was registered and complainant was sent for medical examination.

From perusal of the medical report of the complainant, one contusion over right face caused by hard and blunt object, measuring 3cm x 2cm was found which was simple in nature. Thereafter, on 01.05.2021, he died. His postmortem was conducted. During autopsy, three abrasions on cheek and head were found. As per postmortem report, he died due to rupture of spleen. Thereafter, Section 302 of IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act was enhanced.

Learned counsel for the appellant submits that appellant is innocent and falsely implicated in the case. He is in custody since 03.06.2021. After completion of the investigation, charge-sheet has been filed. Conclusion of trial will take some time. He undertakes to cooperate in trial and to abide by the conditions which may be imposed by this Court. On such premises, learned counsel for the appellant prayed for bail.

Learned counsel for the State opposed the appeal and prayed for its rejection.

Both the Advocates are heard. Case diary perused.

Looking to the facts and circumstances of the case, but without commenting on the merits of the case, this Court is of the opinion that appeal should be allowed and by allowing the appeal and setting aside the order dated 06.09.2021 passed by the trial Court, it is ordered that if appellant furnishes bail bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with one solvent surety in the like amount to the satisfaction of the trial Court, he should be released on bail.

He will present during trial before the trial Court on each and every date.

Appeal stands allowed and disposed of.

Copy of this order be sent to the trial Court concerned for compliance.

Certified copy as per rules.