
(2017) 03 MP CK 0027
In the Madhya Pradesh High Court
Case No : 1861 of 1998

Hiralal and others

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

Date of Decision : 02-03-2017

Acts Referred:

Indian Penal Code, 1860, Section 326,
Section 325, Section 506 -
Voluntarily causing ievous hurt by dangerous weapons or means - Punishment for
voluntarily causing grievou

Citation : (2017) 03 MP CK 0027

Hon'ble Judges : S.K. Gangele

Bench : Single Bench

Advocate : Kuldeep Singh, V.P. Pandey, Sanjay Kushwaha

Judgement

1. Appellants have filed this appeal against the judgment dated 17.08.1998 passed in Sessions Trial No.193/1996 passed by the Court of Ist Additional Sessions Judge Sehore. The trial Court found the appellants guilty for commission of offence and awarded the sentence as mentioned in para 22 of the judgment.
2. Prosecution case in short is that, on 22.08.1996, the complainant had been going to lodge the report at the Police Station at that time, the appellants came there and abused him. Thereafter, inflicted injuries on his head and other part of the body by lathis. After hearing the cry, Kamod, Radheshyam, Rajaram and Santosh came on the spot. The report of the incident was lodged on the next day i.e on 23.8.1996 at 3.25 PM (Ex.P.1). The police conducted the

investigation and filed the charge-sheet. The appellants abjured their guilt. The trial Court after trial held the appellants guilty for commission of offence as mentioned in para 22 of the judgment.

3. Injured (PW-2) Santosh in his evidence deposed that at around 7 O'clock he had gone to his field for eating corn at that time the accused persons came there and Poonamchand inflicted injury by Fersi on his head. Hiralal also inflicted a blow of Fersi. Ramsingh was armed with lathi. Hemraj was armed with Ballam. Omprakash armed with lathi. They tried to beat Babulal, however, he ran away and became unconscious. He was declared hostile.

4. (PW-3) Babulal deposed that he had gone to lodge the report at the Police Station, however, due to flood in the river he returned back and when he reached at a well of Bukhwar wale, Poonamchand, Hemraj, Hiralal, Ramsingh and Omprakash were standing there. They encircled me and they had beaten me by Fersi. When I cried, Kamod, Radheshyam, Rajaram and Santosh reached on the spot. Thereafter, the report of the incident was lodged.

5. (PW-4) Radheshyam and (PW-5) also deposed the same facts.

6. (PW-8) Dr. Girish Joshi in his evidence deposed that he was posted on emergency duty on 23.8.1996 at Community Health Center, Icchawar and he had examined Babulal and found following injuries.

(i) Abrasion on right side of back 3 cm x 1.5 cm.

(ii) Abrasion on left hand 2 cm x 1.5 cm

(iii) Abrasion on left thigh.

He further deposed that he had also examined Radheshyam and found following injuries.

(i) Incised wound on index finger 1.5 x.5 cm.

There is no other injury on his body.

7. (PW-9) Dr. T.N. Chaturvedi, deposed that he was posted as Assistant Surgeon

on 23.8.1996 at District Hospital Sehore and he had examined Santosh and noticed following injuries.

- (i) Lacerated wound on right frontoparietal region 3 Cm x ? cm.
- (ii) Lacerated wound on neck 3 cm x 1 cm.
- (iii) lacerated wound on right arm 2 cm x 1 cm.
- (iv) Lacerated wound on right frontal region 2 cm x 2 cm
- (v) Swelling on left palm
- (vi) Abrasion on left hand 2 cm x 1 cm. Further abrasion on on right hand.
- (vii) Incised wound on left hand 2 cm x 1 cm.
- (viii) Incised wound on left thigh 8 cm x 1 cm.
- (ix) Incised wound on left leg.
- (x) Incised wound on left thigh 3 cm x 1.1/2 cm.
- (xi) Lacerated wound on left leg 1 cm x ? cm x ? cm.

Injuries were caused by hard and blunt object and hard and sharp edged object.

9. Investigating Officer C.L. Sonkar (PW-1) deposed that the report was lodged at the Police Station (Ex.P.1) and he conducted the investigation and recorded the statements of the witnesses.

10. From the aforesaid evidence on record, in my opinion, the trial Court has rightly held the appellants guilty for commission of offence as mentioned above.

11. During pendency of the appeal, the appellants and complainants both have filed compromise application [I.A. No.1027/2017]. Registrar (J-) recorded the compromise and recorded following findings.

"Vide order dated 17.11.2016 the Hon"ble Court has directed for verification and recording of compromise and submit report.

Complainant/injured Radheshyam, Santosh, Babulal present in person and identified by counsel their counsel Shri Sanjay Kushwaha.

Accused/appellants Heeralal, Poonamchand, Hemraj and Ram Singh present in person and identified by their Counsel Shri Kuldeep Singh.

Both parties submit that there is peace between them and they bear cordial

relations and are ready & willing to resolve their disputes voluntarily by free consent. They also have expressed in clear, unequivocal terms that there is peace between complainants and accused/appellants and both are entering into compromise in cross case (compromise application has been filed by Heeralal, Poonamchand, Hemraj and Ram Singh along with affidavit of Ram Singh and Santosh).

The complainant Radheshyam, Santosh, Babulal are not signatory to the compromise deed but they are present in person and have submitted that they are entering into compromise with the accused appellants on their free will and violation without any fear or compulsion.

In the light of the aforesaid factual position it is clear that the complainant and Injured has entered into compromise and given statement voluntarily and without any undue influence or pressure.

Kind attention brought to the fact that accused/appellant Heeralal has been convicted and sentenced u/s 326 IPC, Poonam Chand u/s 326, 325 and 506 IPC, Hemraj has been convicted u/s 326 and 325 IPC and Ram Singh u/s 325 IPC . Kind attention is also brought to the fact that offence u/s 326 IPC is not compoundable as per Section 320 of Criminal Procedure Code."

12. The apex Court in Bankat and another vs. State of Maharashtra, (2005) 1 SCC 343 has held that although the offence under Section 326 of IPC is not compoundable, however, the parties have compromised the matter hence, the sentence awarded by the trial Court could be reduced as already undergone.

"16. However, considering the fact that the parties have settled their dispute outside the court, the fact that 10 years have elapsed from the date of the incident, and the further fact that the appellants have already undergone several months" imprisonment, ends of justice would be met if the sentence of imprisonment is reduced to the period already undergone besides imposing a fine of Rs.5000/- on each of the accused under Section 326 read with Section 34 IPC. In default of payment of fine, the appellants concerned shall undergo imprisonment for a further period of six months. We also refrain from imposing any separate sentence on the other counts of offences. Out of the fine amount, if realised, a sum of Rs. 4000/- also be paid to each of the injured as compensation.."

13. In this view of the matter, keeping in mind the principle of law laid down by the apex Court and the fact that the matter is pending for the last 18 years, the appeal filed by the appellants is partly allowed. The judgment of the trial Court in regard to holding the appellants

guilty for commission of offence punishable under Sections 326, 325 and 506 of IPC is hereby upheld. However, the sentence awarded by the trial Court is modified till the extent of already undergone. The appellants are on bail, their bail bonds are discharged.