
(2012) 05 MP CK 0072

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 924 of 1998

Ibrahim Khan, Shankar Khan and Iqbal Khan

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 07-05-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 357, 374

Penal Code, 1860 (IPC) — Section 294, 324, 325, 34, 506(ii)

Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(1)(x)

Citation : (2012) 05 MP CK 0072

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

Bench : Single Bench

**Advocate : A. Siddique, for the Appellant; R.S. Bais, learned Dy. Govt.
Advocate, for the Respondent**

Judgement

Mrs. S.R. Waghmare, J.—This is an appeal of the year 1998 and it has been filed u/s 374 of the Cr.P.C. by accused appellants Ibrahim Khan, Shankar Khan and Iqbal Khan being aggrieved by the judgment dated 27/7/1998 passed by the Sessions Judge Baiora in S.T.No. 130/1996 whereby the appellants have been convicted for offence under Sections 324, 324/34 and 325/34 of the IPC and sentenced to undergo R.I. for six months each on each count with fine of Rs. 500/- each; in case of default of payment of fine they were to undergo additional 2 months rigorous imprisonment. Brief facts of the prosecution case as alleged are that on the basis of the complaint lodged by complainant Nirbhay Singh, the police station Maman Barodia registered a case against the appellants under Sections 325, 324/34, 294 and 506(ii) of the IPC and u/s 3(1) (x) of the SC & ST (Prevention of Atrocities) Act on causing injuries to the complainants Nirbhay Singh and his brother Devisingh. The police after completion of the investigation filed the charge sheet before the Court. The case was tried by the learned Special Judge, Shajapur. The learned trial Court after conclusion of the trial came to the conclusion that the appellants have not committed the offence under

Sections 294 and 506 (ii) of the IPC and u/s 3(1)(x) of the SC & ST Act and acquitted the appellants from the charges. The accused abjured their guilt and stated that they have been falsely implicated in the matter. However, on considering the evidence on record, the trial Court has convicted and sentence the appellants as herein above indicated. Being aggrieved, the appellants have filed the present appeal.

2. Learned Counsel for appellants has urged that the conviction is contrary to the provisions of law. The Court below has failed to appreciate the evidence and there are material omissions and contradictions in the testimony of the prosecution witness, which have not been considered by the trial Court. Counsel further submitted that the dispute had occurred all of a sudden on a petty matter of stealing electricity. Counsel further submitted that appellant Iqbal was only 22 years of age at the time of the incident. Hence, the appeal deserves to be allowed and the judgment of trial Court be set aside. In the alternate, Counsel submitted that even if this Court was satisfied regarding the conviction, it was now more than 14 years, the custodial sentence may be reduced to the period already undergone.

3. Learned Counsel for respondent/State per contra submitted that the judgment of the trial Court is in accordance with law and does not require any interference. Hence he prayed that the appeal filed by the appellant be dismissed.

4. On considering the above submissions, I find that the impugned judgment is based on valid and cogent reasons and proper marshalling of evidence and no infirmity can be found with the impugned judgment of the trial Court. I have no hesitation in upholding the conviction and sentence for the said offences against the accused/appellants. However, considering the fact that the appellant Iqbal was only 22 years of age at the time of the incident and only a short sentence of six months and one year involved for offence u/s 324, 324/34 & 325/34 of the IPC, the alternate prayer of the Counsel for the appellants 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 to Rs. 3,000/-each which shall be deposited by the accused appellants in the Trial Court and paid to the injured complainants Nirbhay Singh and Devisingh equally as compensation u/s 357 of the Cr.P.C. within a period of two months from the date of this judgment. On failure to pay the fine within the stipulated period and the appellants shall undergo the remaining sentence as directed by the lower Court.

5. With these observations and directions, the appeal is partly allowed to the extent herein above indicated. Appellants are on bail; their bail bond and surety bond are hereby discharged. A copy of this judgment be sent to the concerned lower Court for compliance.