
(2013) 07 MP CK 0041

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 1605 of 2007

Jawaharlal Yadav @ Chunkaman and Another

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision : 18-07-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 374(2)
Penal Code, 1860 (IPC) — Section 186, 294, 353, 506, 509
Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 — Section 3(1)(x)

Citation : (2013) 07 MP CK 0041

Hon'ble Judges : G.S. Solanki, J

Bench : Single Bench

Advocate : Satish Chaturvedi, for the Appellant; R.N. Yadav, PL, for the Respondent

Final Decision : Allowed

Judgement

G.S. Solanki, J.—This appeal has been filed by the appellants u/s 374(2) of the Cr.P.C. being aggrieved by conviction and sentence recorded by the learned Second Additional Sessions Judge, Sehore vide order dated 18.7.2007 passed in Special Case No. 43/2006 whereby the appellants have been convicted for the offences punishable under Sections 294, 353, 509 of the IPC and Section 3(1)(x) of the SC/ST (Prevention of Atrocities) Act and sentenced to S.I. for 1 month and fine of Rs. 100/-, R.I. for 1 year and fine of Rs. 500/-, S.I. for 1 year and fine of Rs. 500/-, R.I. for 6 months and fine of Rs. 1000/-, with default stipulations. The facts, in short, giving rise to this appeal are that complainant Butan Saket, Sarpanch of Gram Panchayat Sukwar had sent a written report to Commissioner Rewa alleging that on 17.10.2004 at about 2:00 PM, when she was conducting a meeting of Gram Panchayat appellant along with co-accused Diwakar and some other persons came there, abused her and interrupted the proceedings of the meeting. It was further alleged that such type of incident had also taken place on 20.9.2004, at that time also the appellants abused her and tore the register of

proceedings of Gram Panchayat. The aforesaid report was sent by the complainant on 5.1.2005 to Commissioner, Rewa, same was forwarded to Superintendent of Police, Rewa. After enquiry, Crime No. 2/2005 has been registered for the offences under Sections 294, 506, 353, 186 of the IPC and Section 3(1)(x) of the SC/ST (Prevention of Atrocities) Act against the appellants. After usual investigation, the appellants were arrested and charge sheeted before JMFC, who committed the case to Special Judge, Rewa.

2. Learned Special Judge framed the charges under Sections 294, 509, 353 of the IPC and Section 3(1)(x) of the SC/ST (Prevention of Atrocities) Act.

3. The appellants abjured the guilt and pleaded false implication.

4. On appraisal of evidence on record, learned Special Judge convicted and sentenced the appellants as mentioned hereinabove, hence this appeal.

5. Learned counsel for the appellants has submitted that the trial Court has committed illegality in not appreciating the evidence on record in its proper perspective. It is a case of belated FIR. Independent witnesses like Ashok Kumar Pathak (PW-3), Secretary of Gram Panchayat and Yaduvansh Prasad Pathak (PW-5) have not supported the version of the complainant, therefore, the conviction and sentence recorded by the trial Court be set aside and appellants be acquitted to the aforesaid charges.

6. Learned Panel Lawyer for the State has supported the conviction and sentence recorded by the trial Court.

7. I have heard the learned counsel for the parties at length, gone through the evidence recorded by the trial Court and other material on record. Complainant Butan Saket (PW-4) in her statement has stated that on the date of incident when she was conducting a meeting of Panchayat where Ashok Kumar Pathak (PW-3) and Yaduvansh Prasad Pathak (PW-5) were also present, at that time Diwakar came there, abused her, asked for register of Agenda and grabbed the same. Appellants also accompanied him and they also scuffled with her. However, eye witnesses Ashok Kumar Pathak (PW-3) as well as Yaduvansh Prasad Pathak (PW-5) have not supported the aforesaid version of the complainant. Yaduvansh Prasad Pathak specifically stated that Diwakar grabbed the register from Sarpanch Butan Saket. Though, they have been declared hostile in cross-examination by the prosecutor, however, nothing has been brought on record to support the case of the prosecution. It is also on record that the incident of grabbing the register had also taken place long back on 20.9.2004 before this incident and the matter was not reported to anyone. Further, if any offence has been committed as per the statement of eye-witnesses, same was committed by co-accused Diwakar. So far as the appellants are concerned, merely their presence on the spot do not establish any offence against them. It is also very strange that the complainant was Sarpanch, she has not lodged any report at Police Station and sent a belated written FIR after about 2-3 months of the incident to the Commissioner.

8. Considering the statements of aforesaid eye witnesses and complainant, the statement of complainant appears to be highly exaggerated and unbelievable. In my opinion, the trial Court has committed illegality in appreciating the evidence on record and in convicting the appellants under Sections 294, 353, 509 of the IPC and Section 3(1)(x) of the SC/ST (Prevention of Atrocities) Act, same is liable to be set aside. Consequently, the appeal is allowed. The conviction and sentence recorded by the trial Court under Sections 294, 353, 509 of the IPC and Section 3(1)(x) of the SC/ST (Prevention of Atrocities) Act against the appellants is hereby set aside. The appellants are acquitted to the aforesaid charges.

The appellants are on bail, their bail bonds and surety bonds stand discharged.

Record of the trial Court be sent back immediately along with the copy of this judgment for information and necessary action.