

(2017) 01 MP CK 0145
In the Madhya Pradesh High Court
Case No : 582 of 2016

Mahadev Prasad Sahu through LRs

APPELLANT

Vs

State of Madhya Pradesh and others

RESPONDENT

Date of Decision : 03-01-2017

Acts Referred:

[Indian Penal Code, 1860](#), [Section 34](#), [Section 324](#), [Section 323](#), [Section 326](#), [Section 148](#), [Section 325](#)

Citation : (2017) 01 MP CK 0145

Hon'ble Judges : S.K.Awasthi

Bench : Single Bench

Advocate : Anand Gupta, R. S. Sharma, R. K. Upadhyay

Judgement

1. The applicants have challenged the order dated 17.05.2016 passed by Additional Sessions Judge, Chachoda, District Guna in Sessions Trial No. 301/2015, whereby the charges under Sections 148, 450, 326, read with Section 149, 325/149, 324/149 and 323/149 of IPC were framed against them.

2. The facts leading to filing of the instant revision application are that on 08.07.2015 at about 7:30 AM complainant Ramswaroop Meena and his wife Guddi Bai were in their house, at that time accused Hemant, Gajraj armed with sword and Shriram armed with lathi entered into the house of the complainant and started abusing them on account of Sarpanch Election. When complainant Ramswaroop objected, then accused Dilip armed with lathi also came there. Accused Gajraj Singh gave a sword blow to Guddi Bai, wife of the complainant, Dilip gave a lathi blow on right hand of Guddi Bai. Shriram gave a lathi blow on the back of Guddi Bai. In the meantime Suraj Bai and Kusum Bai also came there. Surajbai

gave a lathi blow on the right shoulder of Guddi Bai. Hemant gave sword blows on the head of Ramswaroop which led to causing of incise wound and on left

hand below elbow. Kusum Bai inflicted blow with lathi which caused injury on the left elbow of Ramswaroop. Thereafter, the matter was reported to the police leading to registration of FIR for commission of offence under Sections 452, 323, 324, 294, 506-B read with Section 34 of IPC. The police thereafter investigated the matter and subsequently filed charge-sheet for the offences under Sections 452, 294, 323, 324, 506-B read with Section 34 and Sections 325, 326 of IPC.

3. The trial Court after going through the charge-sheet proceeded to frame the charges for commission of offence punishable under Sections 148, 450, 326 read with Section 149, 325/149, 324/149 and 323/149 of IPC. The applicants are aggrieved by the order by which the charges have been framed against them under Section 326 of IPC on the ground that there is no material to attract the offence under Section 326 of IPC. In this regard, learned counsel for the applicants took this Court to the MLC, conducted by the doctor in respect of injured Ramswaroop and his wife Guddi Bai and prayed that the order framing charges against the applicants for commission of offence under Section 326 of IPC be set aside.

4. On the contrary, learned counsel for the respondent supported the impugned order and submitted that since the injuries have been inflicted on the vital parts of the person of the injured Ramswaroop and Guddi Bai, therefore, the charges were rightly framed under Section 326 of IPC.

5. I have considered the rival contentions of the parties and perused the document available on record.

6. Respondent No. 2 Ramswaroop was examined by the doctor and as per the MLC report, following injuries were found on the person of Ramswaroop:-

- (1) Incise wound of 3-1/2cm x 1cm x deep on below occipital region oblique.
- (2) Incise wound of 3cm x 1cm x deep on left forearm middle 1/3.
- (3) Swelling with tenderness movement painful of 6cm x 4cm on left forearm upper 1/3.

As per MLC report, the injuries were referred for X-ray but as per X-ray report no bony injury has been detected on the skull of Ramswaroop, therefore, the said injury seems to be simple in nature.

7. As per MLC report, injured Guddi Bai sustained following injuries:-

- (1) Incise wound of 5cm x 2cm x deep on left side above malor region.
- (2) Contusion(blue) with swelling movement painful of 4-1/2cm x 2cm on right arm lower 1/3 medially
- (3) Multiple contusions of 4 to 6cm x 1 to 1-1/2 cm oblique on left shoulder.

Guddi Bai sustained incised wound in the left side of hand but no bony injury was found by her. As per X-ray report, injury No. 3 was said to be grievous in nature

due to the fracture of fourth metacarpal bone which is caused by hard and blunt object.

8. A perusal of the MLC report of Ramswaroop and Guddi Bai shows that the injuries have been shown to be on the head of Ramswaroop and face of Guddi Bai by sharp cutting object but as per medical report such injuries have been found to be simple in nature. Therefore, framing of charges under Section 326 of IPC, in my opinion, is improper and trial should be proceeded for the offence punishable under Sections 325/149 and 324/149 of IPC and likewise under Section 148 and 325 of IPC.

9. Taking this view of the matter, the instant revision petition is allowed and impugned order is set aside to the extent of framing charges under Sections 326 read with Section 149 of IPC. The trial Court is directed to proceed with charges leveled against the applicants for commission of

offence under Sections 148, 452, 325, 325/149, 324, 324/149, 323 and 323/149 of IPC. It is needless to state that the trial Court shall proceed with the trial without being influenced by the observation made in this order.