
(2010) 10 MP CK 0031
In the Madhya Pradesh High Court
Case No : Criminal Appeal No. 1014 of 1996

Naval Kishor and Others

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

Date of Decision : 26-10-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 357

Penal Code, 1860 (IPC) — Section 323, 34

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

Citation : (2010) 10 MP CK 0031

Hon'ble Judges : M.A Siddiqui, J

Bench : Single Bench

Judgement

M.A. Siddiqui, J.—By feeling aggrieved from the judgment and conviction dated 13.5.1996 passed by Special Judge, Satna in Spl. Case No. 89/95 in which each of the Appellants have been convicted u/s 323 read with Section 34 of IPC and sentenced to R.I. for 3 months each and fine of Rs. 500/-each in default one month's rigorous imprisonment each.

2. In nutshell prosecution case is that the Appellants have voluntarily caused injuries to Smt. Sukbariya, Bheemsen, Babulal, and Bulli Prasad who were members of Scheduled Castes. A report was lodged at Police Station and police after usual investigation filed challan against the Appellants for the offence u/s 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to, for short, "the Act, 1989").

3. The Appellants were charged for the offence u/s 323 of IPC and u/s 3(1)(x) of the Act, 1989.

4. The Appellants abjured the guilt. Their defence was that they have been falsely implicated.

5. Learned Special Judge, Satna after trial acquitted the accused persons for the

offence u/s 3(1)(x) of the Act, 1989 but convicted each of the Appellants for the offence u/s 323 of IPC and sentenced them as mentioned hereinabove.

6. Ku. Manish Shrivastava, learned Counsel for the Appellants has submitted that except the injured persons no other eye witnesses was examined. Bully (PW 4) stated that axe was used to cause injuries but no axe injury was found on the person of injured persons. She submits that entire prosecution story is suspicious.

7. Shri Yogesh Dhaney, learned Panel Lawyer for Respondent/State has submitted that the prosecution has examined Indrajeet (PW 1), Sukbariya (PW 2), Bheemsen (PW 3), Bully (PW 4) and Babulal (PW 5) who have stated that the Appellants caused injuries to the injured but no sharp injury was found by Dr. V.G. Hinduja (PW7) and Dr. A.V. Mishra (PW 8) however simple hurt was found by the doctors. So, all version are very well corroborated not only by the medical evidence but by statement of Himachal Prasad Shukla (PW 6) A.S.I. Police Station Shobhapur, who has categorically stated that not only report was lodged by the complainant but articles were also seized from the Appellants.

8. Learned Counsel for the Appellants has submitted that the struggle started when bullock of Sukbariya (PW 2) entered in the filed of Appellants and the incident is of the year 1995 and the appeal is pending since 1996. More than 15 years have been passed and the Appellants have already been punished with the fine of Rs. 500/-each. She further submitted that the offence u/s 323 of IPC is also punishable with fine, so the fine sentence be only maintained and sentence of rigorous imprisonment for 3 months be quashed. She further submitted that there are no criminal antecedents of the Appellants.

9. Looking to the circumstances of the case since more than 15 years have already been passed and the Appellants have suffered mental agony the appeal deserves to be partly allowed.

10. Accordingly, the appeal filed by the Appellants is partly allowed. The sentence of 3 months R.I. is hereby quashed however the sentence of fine is maintained.

11. The trial Court has not given compensation to the complainants u/s 357 of Code of Criminal Procedure It is ordered that if fine amount has been deposited then Rs. 500/-each be given to the complainants/injured Sukbariya (PW 2), Bheemsen (PW 3), Bully (PW 4) and Babulal (PW 5).

12. Since the Appellants are in bail, their bail bonds and surety stand discharged if they are not required in any other offence.

The appeal allowed in part.