
(2014) 11 MP CK 0021

In the Madhya Pradesh High Court

Case No : Criminal Revision No. 2131/2013

Ramniwas Patel

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 12-11-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 324, 34, 377

Citation : (2014) 11 MP CK 0021

Hon'ble Judges : N.K. Gupta, J

Bench : Single Bench

Advocate : Rajesh Sen, Advocate for the Appellant; G.S. Thakur, Panel Lawyer, Advocate for the Respondent

Judgement

N.K. Gupta, J.—The applicant was convicted of the offence punishable under Sections 324/ 34 of IPC vide judgment dated 20.10.2011 passed by the learned A.C.J.M. Amarpatan, District Satna in Criminal Case No.221/07 and sentenced to two years R.I. with fine of Rs.500/-. In Criminal Appeal No.440/11, the learned Additional Sessions Judge Amarpatan, District Satna vide judgment dated 9.10.2013 has dismissed the appeal filed by the applicant. Being aggrieved with the aforesaid judgments the applicant has preferred the present revision.

2. Facts of the case in short are that on 29.4.2007 the complainant Babulal Kushwaha had lodged an FIR at Police Station, Amarpatan that he was engaged a vehicle sumo for taking the Barat of Ramayan Prasad Patel resident of Devri. Driver Prakash Sen went with the vehicle. After sometime, he was brought back with the intimation that driver Prakash Sen was beaten by the applicant and three other persons. After recording the FIR, the victim Prakash was sent for his medico legal examination and he had informed that some acid was poured upon him by the applicant. Dr. B.P. Mishra (PW-7) examined the victim Prakash at Community Health Centre, Mauganj and gave his report Ex.P/11. He found that skin of the victim burnt at three places by the chemical i.e. acid. After due investigation, a charge sheet was filed.

3. The applicant abjured his guilt. He took a plea that he was falsely implicated in the matter because it was alleged that Ashish son of the appellant was subjected in the crime of Section 377 of the IPC by the victim and due to such suspicion, a false case was registered by the complainant upon the applicant. However, no defence evidence was adduced.

4. The learned A.C.J.M. after considering the prosecution's evidence convicted and sentenced all the accused persons in a similar manner, whereas the description about the conviction and sentence imposed against the applicant is mentioned above. In appeal, the conviction as well as sentence directed against the applicant was maintained.

5. I have heard the learned counsel for the parties at length.

6. After considering the evidence given by Prakash Sen (PW-1), Shailendra Sharma (PW-3), Praveen Sharma (PW-4) alongwith MLC report Ex.P/11 proved by Dr. B.P. Mishra (PW-7), it is proved beyond doubt that the victim sustained the injuries caused by acid and such injuries was caused by the applicant. Acid was poured upon the victim by four persons but he could not identify other three accused persons except the applicant. He has categorically mentioned that it was the applicant who took a bottle of acid from his pocket and poured upon his waist and penis. No doubt could be created by the applicant in the cross- examination of these witnesses. Both the Courts below have rightly found that the applicant had voluntarily caused hurt to the victim Prakash by pouring acid on his body and therefore, the conviction of the applicant of offence under Section 324/ 34 of the IPC is maintainable.

7. So far as the sentence is concerned, learned counsel for the applicant has submitted that the appellant was the first offender. By his overt act, no grave injury has been caused. It is not observed by any doctor that the victim Prakash lost his potency. The little portion of the body of the victim Prakash was affected, whereas the applicant is in custody for more than a year. Under such circumstances, looking to his custody period, his sentence should be reduced to the period for which he remained in the custody.

8. After considering the facts and circumstances of the case and submissions made by learned counsel for the applicant, it appears that the applicant poured some weak acid on the penis and waist of the victim because the victim had committed an unnatural offence with son of the applicant. Hence, looking to the nature of the case, one year sentence should be sufficient against the applicant in the present case. Consequently, the sentence may be reduced to the period for which he remained in the custody.

9. On the basis aforesaid discussion, the present revision filed by the applicant is hereby partly allowed. His conviction of offence under Sections 324/ 34 of the IPC is hereby maintained but the sentence is reduced to the period for which he remained in the custody. No change in the fine amount.

10. The applicant is in custody therefore, office is directed to arrange for issuance of super-session warrant forthwith so that the applicant may be released without any delay because the fine has already been deposited before the trial Court.

11. Copy of the order be sent to both the Courts below alongwith their records for information and compliance.