

(2017) 03 MP CK 0126
In the Madhya Pradesh High Court
Case No : 975 of 1997

Sabhapati Vais S/o Ramlallu Vais & Ors.

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 01-03-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 357](#) — Order to pay compensation
[Indian Penal Code, 1860](#), [Section 506](#),
[Section 332](#), [Section 333](#)

Citation : (2017) 03 MP CK 0126

Hon'ble Judges : Alok Verma

Bench : Single Bench

Advocate : P.K. Shukla, Peeyush Jain

Judgement

1. This Criminal Appeal arises out of judgment of conviction and sentence passed by learned Additional Session, Sonkachh, District-Dewas in Session Trial No.17/1996 dated 16.09.1997, whereby the learned Additional Sessions Judge found the appellants guilty under Sections 332, 333 and 506 of IPC and sentenced them to three years rigorous imprisonment each and fine of Rs.500/- each under Section 333, rigorous imprisonment of two years each and fine of Rs.200/- each under Section 332 and rigorous imprisonment of six months under Section 506 of IPC. They were further directed to undergo five months simple imprisonment each in case of default

of payment of fine under Section 333 and two months each of simple imprisonment in case of default of payment of fine under Section 332 of IPC.

2. According to prosecution story, the incident took place on 07.11.1995 at about 11:30 am. Admittedly the temporary connection was installed in the house of Dhannaji S/o Bhagirath for a period of one month. After expiry of said period of one month, the junior engineer of the electricity board and his staff including Ram Singh Jhala, Kailash, Mukesh and Samudra went on the spot to disconnect

the connection. According to prosecution story, when they reached there, the present appellants attacked on them. They gave blow by lathi due to which both the bones of forearms of Ram Singh sustained fracture, Kailash also sustained simple injuries. Due to such attack, they could not perform their official duty. While, they tried to run away they were threatened by the present appellants that they would kill them if they came back to disconnect the connection.

3. Aggrieved by this order of conviction and sentence, this appeal is filed on the ground interalia that:- (i) there are several discrepancies and contradictions in the statements of prosecution witnesses. The trial Court ignored such contradictions and discrepancies.

(ii) the complainant went beyond the scope of their official duty, and therefore, it could not be said that they were performing their official duty.

(iii) the trial Court did not believe the defence evidence produced by them, which is also wrong.

4. Learned counsel for the State support the judgment and conviction and submitted that the appeal should be dismissed

5. Prosecution witness Sahib Rao was junior engineer on 07.11.1995. He stated in his statement that on the date of incident, they went on spot to disconnect the temporary connection sanctioned in the name of Dhannaji S/o Bhagirath. With him, Ram Singh Jhala P.W-2, Kailash P.W-3, Mukesh and Samudra were also went to the spot. The present appellants were present there. He asked to Mukesh and Samudra to disconnect the connection. When they were going towards pole to disconnect the connection, present appellants attacked on them. Shobharam tried to give blow on him, which was stopped by Ramsingh Jhala due to which, he received fracture on his forearm. To save him Kailash came there and he was also inflicted certain injuries. In his cross examination, not a single contradiction or omission was pointed out. Similarly in the statement of Ramsingh Jhala, who supported the statement of Sahib Rao P.W-1, no contradiction was pointed out. So is the case of Kailash P.W-3, Samudra P.W-5 and Mukesh P.W-6 were also

examined. They also supported the prosecution evidence and there was no discrepancy pointed out in their statement. Dr. N.K. Pancholi P.W-7 who was medical officer, who found fracture in the forearm of Ramsingh. His reports are Exhibit-8, 9 and 10

6. Dhannaji in whose name the connection stood, was examined as D.W-1. According to this witness, he went to extend the period of his temporary connection. According to him, he went to office of M.P.E.B. and requested them to extend the period of connection, however, he was driven away by the staff of the Electricity Board. When he came back to his field, he found that connection was disconnected and the staff of the Electricity Board took away his thresher. He lodged a report of this incident which is Exhibit-D-2. According to this report, on

07.11.1995, he went to the office of the board to get the period of his temporary connection extended but he was scolded by Supervisor Makore and was driven away. He went to his sister place in village-Dhatoria and when he reached back on next date, he came to know about the incident. According to the report, the complainant and other staff members of Electricity Board entered into his house for disconnecting the connection and also misbehaved with his sons and when his son brought the lathi they went away and lodged a false report. According to the report, false report was lodged due to political rivalry.

7. I have meticulously gone through the evidence produced by

the prosecution and the defence and I find that the report lodged by father of the present appellant was only counter blast as a report was already lodged against the present appellants. The present appellants were major persons and there was no reason why they themselves could not lodge the report.

8. In this view of the matter, the evidence produced by the defence is not reliable. On the contrary, the statements of prosecution witnesses is supported by a medical evidence. Sanction of temporary connection to Dhannaji is an admitted fact. It was also admitted that the connection was sanctioned only for one month and the period expired on the date of incident. In these circumstances, I find that the prosecution witness-1, 2, 5 and 6 are reliable and there is no reason to doubt on their statements. Relying on their statements, it is apparent that the offence under Sections 332, 333 and 506 of IPC is proved beyond doubt. The conviction is based on cogent reasons and requires no interference. Accordingly, the conviction of the present appellant under Section 332, 333 and 506 of IPC is hereby affirmed.

9. Now coming to the sentence awarded on the present appellants, the appellants were awarded three years rigorous imprisonment each under Section 333 of IPC. The incident took place in the year 1995. They have been facing the trial and then appeal for the last twenty two years and taking these facts into

consideration, the sentence of three years each on the appellants appeared to be on higher side.

10. Accordingly, this appeal is partly allowed. The conviction of the appellants under Sections 332, 333 and 506 of IPC is affirmed. While the sentence awarded on them under Section 333 of IPC is reduced from three years rigorous imprisonment each to 11/2 years rigorous imprisonment each and the fine amount is enhanced from Rs.500/- each to Rs.5,000/- each. The sentence under Section 332 of IPC is reduced from two years rigorous imprisonment each to one year rigorous imprisonment each and the amount of fine is enhanced from Rs.200/- each to Rs.2,000/- each. Similarly the sentence under Section 506 is reduced from six months each to three months each.

11. The simple imprisonment in default of payment of fine in case of Section 333 of IPC is increased from five months to six months and under Section 332 of IPC

from two months to three months.

12. The injured Ramsingh shall be paid sum of Rs.10,000/- by way of compensation under Section 357 of Cr.P.C. out of the amount of fine recovered from the appellants. The seized property shall be destroyed.