
(1999) 05 AHC CK 0235
In the Allahabad High Court
Case No : Criminal Revision No. 1034 of 1999

Sethal and Others

APPELLANT

Vs

State of U.p.

RESPONDENT

Date of Decision : 20-05-1999

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 397, 401

Citation : (1999) 3 ACR 2675

Hon'ble Judges : B.K. Rathi, J

Bench : Single Bench

Judgement

B.K. Rathi, J.—This is a revision u/s 397/401. Code of Criminal Procedure against the order dated 28.4.1999 passed by the Sessions Judge, Kushi Nagar at Padrauna by which he dismissed Criminal Appeal No. 5 of 1998.

2. The applicants were prosecuted for the offence under Sections 323/34 and 506. I.P.C. The learned Magistrate convicted them. After hearing the accused, he ordered that they are sentenced to six months" R.I. and to pay a fine of Rs. 500 each. However, in the operative portion he has only mentioned that the accused are sentenced for the offence under Sections 323 and 506, I.P.C. to six months" R.I. each. There is not only of sentence of fine in the operative portion. Apart from this, there is another illegality in the order. The learned Magistrate should have awarded separate sentences for the offence under Sections 323 and 506, I.P.C. On the other hand, he has awarded composite sentence of six months. The learned Magistrate is directed to study the law and to pass proper orders.

3. The learned Sessions Judge has rejected the appeal. He too in the last para of the judgment has mentioned that both the above modification in the conviction and sentence recorded by the Magistrate deserves to be upheld. However, in the operative portion he mentioned that the appeal is dismissed and the conviction and sentence recorded with the above modification are confirmed. He has also not mentioned in the order the modification made in the sentence of the applicants.

4. There is another important fact which should be noted that neither the learned Magistrate nor the learned Sessions Judge has noted the injuries caused to the victims of this case.

5. Learned Counsel for the applicants has requested that the sentence be converted into fine. I, therefore, maintain the conviction of the applicants for the offence under Sections 323 and 506, I.P.C. I direct that each of the applicants shall pay a fine of Rs. 200 for the offence u/s 323, I.P.C. and Rs. 100 for the offence u/s 506, I.P.C i.e., total amount of fine of Rs. 300.

With this modification this revision is disposed of finally.