

(2013) 07 MP CK 0185

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 2237 of 2007

Sonu ailas Kanja alias Rohit Sonkar

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

Date of Decision : 02-07-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 374
Explosive Substances Act, 1908 — Section 5

Citation : (2013) 07 MP CK 0185

Hon'ble Judges : G.S. Solanki, J

Bench : Single Bench

Advocate : V.K. Tyagi, for the Appellant; Pratibha Mishra, PL, for the Respondent

Final Decision : Partly Allowed

Judgement

G.S. Solanki, J.—Heard finally. This appeal has been filed by the appellant u/s 374 of the Cr.P.C. being aggrieved by conviction and sentence recorded by 14th Additional Sessions Judge (Fast Track) Jabalpur vide order dated 9.10.2007 passed in S.T. No. 330/2006 whereby the appellant has been convicted u/s 5 of the Explosive Substances Act and sentenced to R.I. for 2 years.

2. The facts, in short, giving rise to this appeal are that on 7.11.2002 at mid-night L.S. Tomar (PW-1), SHO, Investigating Officer, P.S. Belgagh received a secret information about 3:30 AM that appellant Sonu @ Kanja @ Rohit Sonkar is possessing a country made bomb and involved in preparation of aforesaid bomb. A raid was made along with the Panch witnesses in the house of the appellant and appellant was found in possession of 18+13 country made bomb said to have been made for killing the Pigs along with other material like pieces of iron about 5 Kg, Sutli etc. After seizure of aforesaid articles and due investigation, the appellant was charge sheeted before JMFC, Jabalpur, who committed the case to the Court of Session. The 14th Additional Sessions Judge, Fast Track Court, Jabalpur framed the charge u/s 5 of the Explosive Substances Act.

3. The appellant abjured the guilt and pleaded false implication
4. On appraisal of evidence on record, the learned 14th Additional Sessions Judge convicted and sentenced the appellant as mentioned hereinabove.
5. Learned counsel for the appellant has submitted that he does not want to press the conviction recorded by the Sessions Court. However, the appellant has suffered the jail sentence of about 7 months during trial and from 27.8.2012 till date. In all the appellant has suffered the jail sentence of about 11/2 years. The ends of justice would be met, if the sentence of the appellant is reduced to the period already undergone.
6. Learned Panel Lawyer for the State has supported the conviction and sentence recorded by the Court below.
7. I have heard the learned counsel for the parties at length and gone through the order passed by the Court below. Since the learned counsel for the appellant has not pressed for the conviction of the appellant recorded u/s 5 of the Explosives Substances Act by the Sessions Court, same is hereby affirmed.
8. So far as sentence is concerned, the incident had taken place about 10-11 years before, the appellant has suffered the jail sentence of about 11/2 years, in my opinion, no useful purpose is going to be served by sending the appellant again to the jail. Thus, it would be in the interest of justice if the appellant is sentenced for the period already undergone i.e. R.I. for 11/2 years.
9. Consequently, the appeal is partly allowed. The conviction of the appellant recorded by the Court below u/s 5 of the Explosive Substances Act is hereby affirmed. The sentence of the appellant recorded by the Court below is reduced. The appellant is sentenced for the period already undergone i.e. about 11/2 years.
10. The appellant be set at liberty forthwith, if he is not required in any other offence. Record of the trial Court be sent back immediately along with the copy of this judgment for information and necessary action.