

(2014) 05 MP CK 0207
In the Madhya Pradesh High Court
Case No : CRA. 876/2012

Sonu Prajapati

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision : 06-05-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 374
Explosives Act, 1884 — Section 3, 4, 5
Penal Code, 1860 (IPC) — Section 307

Citation : (2014) 05 MP CK 0207

Hon'ble Judges : M.K. Mudgal, J

Bench : Single Bench

Advocate : R.K. Sharma, Advocate for the Appellant; R.K. Awasthy, Public Prosecutor, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

M.K. Mudgal, J.—With the consent of both the parties, the matter is finally heard at the motion stage.

2. The appellant has filed this appeal u/s 374 Cr. P.C. against the judgment dated 20.9.2010 passed by the Court of III Additional Judge to the Court of I Additional Sessions Judge Gwalior in Sessions Trial No. 181 of 2009 convicting the accused/appellant u/s 307 of IPC and 4/5 of Indian Explosives Act and sentencing him to undergo rigorous imprisonment for Seven years with fine of Rs. 2000/- and One year's with fine of Rs. 500/- with default stipulation mentioned in the impugned judgment.

3. Prosecution story in nut-shell is that the complainant Parashuram's daughter Uma got married to Vishnu Prajapati in 2005. After marriage one day Vishnu Prajapati assaulted his wife Uma with knife. In this regard, a criminal case u/s 307 of IPC was registered against him. After nearly eight to ten months, Vishnu committed suicide at Utila. After this incident, deceased Vishnu's nephew Sonu used to threaten the complainant and his family members to kill them. On

13.4.2008 at 2 AM, the complainant along with his family members was sleeping at home. At that moment, suddenly, they heard the sound of something falling in the courtyard. He saw something burning in a cotton wrapped article and found black bag lying at a distance. Immediately, he opened the gate and he found the accused Sonu who ran away on seeing him. Thereafter, the complainant informed the police and with the help of them, a bomb kept in the said bag was got destroyed. After sometime, the accused Sonu made a call on his mobile Phone No. 9926663199 to Parashuram (complainant) on his mobile number 9755321859 threatening to kill him and his family. On the basis of aforesaid facts, an FIR Ex. P/4 u/s 307 of IPC and Section 4/5 of Explosives Act was registered against the accused. After investigation, charge-sheet was filed before the court of JMFC, Gwalior which in turn committed the case to the court of sessions, where the charges were framed against the appellant-accused who denied the same. In order to prove the case, the prosecution got the statements of four witnesses recorded. By the impugned judgment, the appellant was convicted and sentenced as stated earlier.

4. The learned counsel for the appellant submits that he does not want to challenge the findings recorded by the trial court for conviction of the accused u/s 307 of IPC and Section 4/5 of Indian Explosives Act, however, he urges for sentencing the accused for a period already having been served to him. The counsel further points out that the accused has been in jail ever since conviction passed on 20.9.2010. Moreover, during trial, he had been under custody for a period of six months 23 days. Thus, the accused has spent a period more than four years in prison.

5. Learned PP opposing the same has contended that there is no need to reduce the sentence passed by the trial Court considering the gravity of the offences.

6. Heard the arguments and perused the record.

7. As per prosecution story, Parashuram (PW 3) deposing his statement and corroborating the allegations made in the FIR Ex. P/4, has stated that when he opened the gate after hearing the sound of something falling in his courtyard he saw Sonu present there, who started running after seeing him. The statement of (PW 3) gets corroborated by Ex. P/4 which was lodged immediately after the incident. The said story also gets corroborated by the statements of the other witnesses Santosh Kumar Sharma (PW 1), Jogendra Singh (PW 2) and R.S. Bhadoria ASI (PW 4). Having considered the recorded evidence, the findings of the conviction recorded by the trial Court are proper. Hence, the conviction of the appellant-accused is confirmed.

8. As far as the sentence of Seven years of imprisonment awarded to the appellant-accused is concerned, the reduction in sentence to the period of imprisonment already undergone by the accused as prayed for by him, does not seem to be unjustified as no criminal background of the accused is on record. Moreover, no harm was done to anyone as well as property.

9. Considering the above facts and circumstances of the case and period of custody, while maintaining the conviction of appellant u/s 307 of Indian Penal Code and u/s 3/4 of the Indian Explosives Act, his sentence is reduced to the period of imprisonment already undergone by him subject to the payment of fine as imposed by court below.

10. Accordingly, with the aforesaid modification, appeal stands disposed of.

11. The appellant is in jail, hence, a copy of the judgment be sent to the concerned jail and the trial court with the direction that if the custody of the appellant-accused is not required for any other case, he be released forthwith.