
(2009) 11 MP CK 0053
In the Madhya Pradesh High Court

State of Madhya Pradesh

APPELLANT

Vs

Sunder Singh

RESPONDENT

Date of Decision : 04-11-2009

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 377(1)
Penal Code, 1860 (IPC) — Section 326

Citation : (2009) 11 MP CK 0053

Hon'ble Judges : Sushma Shrivastava, J

Bench : Single Bench

Judgement

Sushma Shrivastava, J.—Appellant/State of Madhya Pradesh has preferred this appeal u/s 377(1) of Cr.P.C. for enhancement of the sentence imposed on the respondent u/s 326 of I.P.C. vide judgment dated 07.10.2006 passed by Sessions Judge, Raisen in Criminal Appeal No. 270/05.

2. Respondent Sunder Singh was convicted u/s 326 of I.P.C. for causing grievous hurt to Chhote Bhaiya by means of farsa and sentenced to rigorous imprisonment for two years with fine of Rs. 1,000/- in default simple imprisonment for two months, by Judicial Magistrate First Class, Udaipura, Camp Bareilly, District Raisen vide judgment dated 29.11.05 passed in criminal case No. 29/04. In criminal appeal preferred by the respondent against his conviction and sentence, his conviction u/s 326 of I.P.C. was maintained, but his sentence of imprisonment for two years was reduced and modified to the period of 16 days already undergone by him with fine of Rs. 1,000/- by Sessions Judge, Raisen vide impugned judgment dated 07.10.06 passed in criminal appeal No. 270/05. Being aggrieved by the aforesaid judgment, State of Madhya Pradesh has preferred this appeal for enhancement of sentence on the respondent.

3. Learned Counsel for the appellant/State submitted that respondent was found guilty for causing grievous hurt to Chhotte Bhaiya by means of farsa and it was proved from the medical evidence that there was amputation of four fingers of the right hand of injured Chhote Bhaiya. In such a case, the sentence of

imprisonment only for 16 days and meager fine of Rs. 1,000/- is inadequate punishment, which deserves to be enhanced.

4. Shri Amit Jain, learned Counsel appearing on behalf of the respondent, on the other hand, justified the impugned sentence imposed on the respondent and submitted that the incident occurred in the year 1991 and a period of nearly 19 years have already elapsed and it would not be proper to send the respondent back to jail after such a long lapse of time. He also submitted that the respondent is a poor person, so the impugned sentence of fine also does not deserve any enhancement. Learned Counsel appearing on behalf of the respondent, however, did not challenge the finding of guilt recorded against the respondent u/s 326 of I.P.C.

5. Record of the case is perused. In view of the evidence of complainant Raja Bhaiya (P.W.-1) and injured Chhote Bhaiya (P.W.-3) coupled with medical evidence of Dr. N.S. Chandrawanshi (P.W.-5) and Dr. A.C. Agrawal (P.W.-7), the finding of guilt arrived at by the two courts below against the respondent that he caused grievous hurt to Chhote Bhaiya, S/o Hamir Singh by means of farsa does not suffer from any infirmity. It is also evident from the medical evidence that as a result of injuries caused to injured Chhote Bhaiya by the respondent, his four fingers of the right hand were amputated from the middle of phalanx.

6. Looking to the nature of injuries caused to the injured, the impugned sentence imposed on the respondent appears to be quite inadequate. However, considering the fact that the incident of the case occurred in the year 1991, it would not be appropriate to send back the respondent to jail after lapse of such a long period. It would however be in the fitness of things, if the impugned sentence of fine imposed on the respondent is raised from Rs. 1,000/- to Rs. 5,000/-(Rs. Five Thousand only).

7. Appeal is, therefore, partly allowed. Maintaining the impugned sentence of imprisonment imposed on the respondent u/s 326 of I.P.C., his sentence of fine is raised from Rs. 1,000/- to Rs. 5,000/- (Rs. Five Thousand only), to be deposited by the respondent within a period of three months from today, failing which he shall undergo rigorous imprisonment for four months. The amount of fine imposed by the court below, if deposited, shall be adjusted in the amount of fine of Rs. 5,000/-

8. The amount of fine, if recovered, shall be paid to injured Chhote Bhaiya as compensation for injury caused to him.

Appeal is accordingly disposed of.