

(2012) 08 MP CK 0105

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 3151 of 2012

The State of Madhya Pradesh

APPELLANT

Vs

Bane Singh and Anr

RESPONDENT

Date of Decision : 29-08-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 294, 326, 34, 341, 427
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(1)(x), 3(2)(v)

Citation : (2012) 08 MP CK 0105

Hon'ble Judges : P.K. Jaiswal, J; M.C. Garg, J

Bench : Division Bench

Advocate : B.L. Yadav, Dy Govt, for the Appellant;

Final Decision : Dismissed

Judgement

1. Heard on the question of admission. This application for grant of leave to appeal has been filed against the judgment of acquittal dated 27.1.2012, passed by the the Special Judge, Ujjain in Special Sessions Trial No. 29/08, whereby the learned trial Court acquitted the accused-respondents No. 1 & 2 for an offence punishable under Sections 294, 341, 427 or 427/34 & 326 of the IPC and Sections 3(2)(v) and 3(1)(x) of the SC/ST (Prevention of Atrocities) Act, 1989.
2. Learned counsel for the applicant drew out attention to the statement of the injured as well as the statement of doctor and submitted that the learned trial Court without appreciating the evidence properly erred in acquitting the respondents-accused and prayed that this application for grant of leave to appeal be allowed.
3. We have heard the learned Dy Govt. Advocate for the applicant and perused the record.
4. As per statements of PW1 Shivilal and PW7 Dharmendra so also to the fact that there was old enmity between the complainant party and the accused

persons. They have taken loan from the accused persons and for non payment of the loan an agreement was executed for execution of a sale deed in respect of two acres of land and later on original person who executed the agreement had died and, thereafter, a dispute arose between them. It is submitted by the learned Dy. Govt. Advocate that as per medical report all the injuries have been caused by sword.

5. Considering all these facts so also the statement of PW2 who in his cross examination has deposed that the injured persons had gone for cutting crop of Soyabean and the injury received by the injured can be caused by sickle also, they injured and other eye witnesses did not support the prosecution case. On due consideration of the aforesaid facts and circumstances and the evidence which has come on record we are of the view that the view taken by the learned trial Court is the possible view. The acquittal by the trial Court should not be interfered with unless it is totally perverse or wholly unsustainable. No case for interference is made out. This application has no merit and is, accordingly, dismissed.