
(2010) 03 MP CK 0057
In the Madhya Pradesh High Court

Toran Singh Yadav and Others

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 18-03-2010

Acts Referred:

Penal Code, 1860 (IPC) — Section 148, 149, 326, 447

Citation : (2010) CriLJ 2601

Hon'ble Judges : N.K. Mody, J

Bench : Single Bench

Judgement

N.K. Mody, J.—Being aggrieved by the judgment dated 10-8-2010 passed by Additional Sessions Judge, Guna in Cr. A. No. 160/09, whereby the judgment dated 16-4-09 passed by JMFC, Radhogarh in Criminal Case No. 992/08, whereby the petitioners were convicted for the offence punishable u/s 148 of IPC by sentencing them to undergo one year and fine of Rs. 100/- each, u/s 326/149 of IPC by sentencing them to undergo three year and fine of Rs. 500/- and u/s 447 of IPC fine of Rs. 200/- was imposed, was confirmed, present revision petition has been filed.

2. Case of the prosecution was that on 10-9-1996 at about 1.00 p.m. when the complainant Imratsingh was in his hut, at that time petitioners armed with lathi, farsi and axe came there and assaulted the complainant, with the result complainant sustained grievous injuries. Upon the complaint; case was registered against the petitioners. After framing of charges and also after recording of evidence the offence was found proved and petitioners were convicted as stated here-inabove. An appeal was preferred against that order which was dismissed, hence this revision petition.

3. Learned Counsel for the petitioners argued at length and submits that petitioners have convicted illegally while petitioners have not committed any offence. Learned Counsel further submits that the learned Courts below committed error in not properly appreciating the evidence which resulted incorrect judgment and is liable to be set aside in this revision. It is submitted

that the learned Courts below committed error in not considering that material omissions and contradictions appearing in the testimony of the prosecution witnesses. Learned Counsel submits that the conviction and sentence be set aside.

4. In alternative learned Counsel submits that the petitioners are in jail w.e.f. 10-3-2010. It is submitted that the petitioners are poor persons. It is submitted that looking to the nature of offence and the fact that petitioners have already served substantive part of jail sentence, the same may be reduced to the period already undergone and the amount of fine may reasonably be enhanced.

5. Learned Counsel for the State submits that after due appreciation of evidence both the Courts below have found the petitioners guilty for the aforesaid offence. It is submitted that revisional jurisdiction of this Court is limited and no interference is called for in the concerned findings recorded by the Courts below.

6. From perusal of the record it is evident that both the Courts below concurrently found that the petitioners have committed offence for which the petitioners have been convicted. This Court is well aware about the limitation of this Court while exercising the revisional jurisdiction, which does not empower reappraisal of evidence. Hence, so far as conviction is concerned the judgment passed by the learned Courts below is maintained.

7. So far as the period of sentence is concerned, looking to the limited prayer made by the Counsel for the petitioners and the nature of offence and the, fact that the dispute is of the year 1996 and the fact that petitioners have already served substantive period of jail sentence the purpose would be served in case the jail sentence awarded to the petitioners is reduce to the period already undergone, subject to depositing further fine of Rs. 22,000/- (Rs. 2,000/- each), for which Counsel for the State also agrees, which shall be payable to the complainant/injured Imratsingh, failing which the petitioners shall suffer jail sentence awarded by the learned Court below.

8. In the result the revision petition is partly allowed. The findings of conviction is hereby maintained with the modification to the extent that the jail sentence awarded to the petitioners is reduced to the period already undergone subject to depositing further fine/compensation of Rs. 22,000/- (Rs. 12,000/- each), which shall be payable to complainant/injured Imratsingh, failing which the petitioners shall suffer jail sentence awarded by the learned Court below. Upon depositing the aforesaid amount, petitioners be released forthwith if not required in any other case.

With the aforesaid modification, the revision petition stands disposed of.