
(2006) 04 MP CK 0124
In the Madhya Pradesh High Court
Case No : Criminal Rev. No. 1346 of 2005

Yashpal Singh

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision : 18-04-2006

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 397, 401
Penal Code, 1860 (IPC) — Section 325
Probation of Offenders Act, 1958 — Section 4

Citation : (2006) 4 MPLJ 188 : (2006) 4 RCR(Criminal) 991

Hon'ble Judges : Manjusha Namjoshi, J

Bench : Single Bench

Advocate : R.K. Nonhoriya, for the Appellant; Sudeep Deb, Panel Lawyer for State, for the Respondent

Final Decision : Allowed

Judgement

Mrs. Manjusha Namjoshi, J.

This revision is u/s 397 read with section 401, Criminal Procedure Code.

The accused/applicant Yashpal Singh, along with two other accused, was prosecuted by the Judicial Magistrate First Class, Jabalpur in Criminal Case No. 2811/95 parties being State vs. Ramesh, Yashpal and Sharad. By its judgment and order dated 6-2-2004 the trial Court convicted the applicant u/s 325, Indian Penal Code to undergo sentence of simple imprisonment for a period of three months and pay a fine of Rs. 500/- and in default to undergo further Simple imprisonment for a period of one month. Against this judgment of conviction and sentence accused preferred appeal before the Sessions Court, The Court of 4th Additional Sessions Judge, Jabalpur by its judgment dated 15-7-2005 in Criminal Appeal No. 48/2004 parties being Yashpal vs. State upheld the conviction of the applicant. As regards sentence part the Appellate Court suspended the sentence but granted benefit u/s 4 of the Probation of Offenders Act. In addition to it the Court ordered the accused to pay a compensation of Rs. 7500/- u/s 357,

Criminal Procedure Code to Yogesh Bhatia.

Parties heard, record perused.

The evidence on record of Shamlal (P.W. 1), Ajay Vinodia (P.W. 2), Yogesh (P.W. 3) and Ajay (P.W. 4) clearly reveals that it was Yashpal who caused grievous injury to Yogesh. The Medical evidence of Dr. Thakur (P.W. 5) and Dr. Khan (P.W. 6) also corroborate the evidence of the victim. Therefore, both the Courts below were right in convicting the accused.

The next question put forward before this Court is about compensation u/s 357, Criminal Procedure Code. The Appellate Court has awarded compensation of Rs. 7500/- to be paid to the victim Yogesh. The purpose of compensating the victim as per the provision of section 357, Criminal Procedure Code cannot be disputed. In case of Hari Kishan Vs. Sukhbir Singh and Others, it was held that payment by way of compensation must, however be reasonable. What is reasonable may depend upon the facts and circumstances of each case. The quantum of compensation may be determined by taking into account the nature of crime, the justness of claim by the victim and ability of accused to pay it.

Section 357(1) and (3), Criminal Procedure Code provides Power to award compensation to victim of the offence. The nature of fracture sustained by Yogesh was on lower end of tibia. That fracture was not a complicated one. The Appellate Court was exercising powers u/s 357, Criminal Procedure Code and not under the law of tort where compensation by way of damages can be awarded. The word compensation is derived from the latin word "compensare" meaning "weigh together" or "balance". The term "damages" on the other hand constitute the sum of money claimed or adjudged to be paid in compensation for loss of injury sustained the value estimated in money of something lost or withheld. Thus, the term "compensation" etymologically suggests the image of balancing one thing against another, its primary signification is equivalence, and the secondary and more common meaning is something given or obtained as an equivalent. Pecuniary damages are to be valued on the basis of "full compensation".

In the present case the quarrel started instantly and the accused gave a lathi blow to the victim, the accused is agriculturist. Hence, looking to the circumstances of the case, nature of offence and circumstances under which offence was committed the compensation awarded is unreasonable and cannot be said to be moderate and balanced to the act committed by the accused.

In the result, the revision is partly allowed. The conviction part of the judgment is maintained but the compensation part of the order is modified and it is ordered that the applicant/accused shall pay a compensation of Rs. One thousand (Rs. 1000/-) to the victim Yogesh Bhatia s/o Sirendra Mohan Bhatia of Bedinagar, Gurdeo colony, P.S. Gadha, Jabalpur. The amount of compensation should be deposited forthwith as the case is of 1989. The trial Court should take suitable steps according to law for the recovery of the same. If any amount by way of

fine and compensation is deposited by the accused in the trial Court it should be adjusted and excess amount if any be returned to him.