IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VINAY SARAF

ON THE 28th OF DECEMBER, 2023

CRIMINAL APPEAL No. 1378 of 2008

BETWEEN:-

1. **RAM VISHAL S/O SUGAREEV SINGH RATHORE, AGED ABOUT 38 YEARS, R/O PINDARUKHI, P.S. DINDORI, DISTRICT DINDORI (MADHYA PRADESH)**

2. **BADRI SINGH S/O UDAI SINGH RATHORE, AGED ABOUT 41 YEARS, R/O PINDARUKHI, P.S. DINDORI, DISTRICT DINDORI (MADHYA PRADESH)**

.....APPELLANTS

(BY SHRI ADITYA VYAS - ADVOCATE)

AND

THE STATE OF MADHYA PRADESH, DISTRICT DINDORI (MADHYA PRADESH)

.....RESPONDENT

(BY SHRI AJAY TAMRAKAR - PANEL LAWYER)

This appeal coming on for hearing this day, the court passed the following:

JUDGMENT

By the present appeal filed under Section 374(2) of the Code of Criminal Procedure, the appellants have challenged the judgment of conviction and order of sentence dated 27.06.2008 passed by Special Judge (SC/ST), Mandla, in Special Case No.39/07 whereby the appellants have been convicted under Section 324 r/w 34 of the Indian Penal Code and sentenced to undergo 6 months' R.I. each and fine of Rs.2,000/- each and in default, to further undergo

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6 months' R.I. each.

2. The learned counsel for the appellants has submitted that the prosecution failed to prove the case beyond reasonable doubt. During trial, the appellants were in custody since 11.07.2007 to 13.07.2007. He prayed for acquittal of the appellants.

3 . *Per contra*, the learned counsel appearing for the respondent/State supported the judgment and submitted that the prosecution has duly proved the incident and the learned Special Judge has rightly convicted the appellants under Section 324 r/w 34 of the Indian Penal Code.

4. After hearing the learned counsels for the parties and after perusal of record, it appears that on 10.07.2007, Ramabai Choudhary lodged a report against the present appellants at Police Station-AJK, District- Dindori, which was registered as Crime No.04/07 under Sections 294, 506 (Part-II), 324 r/w 34 of the Indian Penal Code and Section 3(1)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 [hereinafter referred to as 'the Act, 1989]. After investigation, the charge-sheet was filed against the appellants. The prosecution has examined 9 witnesses, whereas the defence has examined 2 witnesses in defence. The learned Special Judge, by judgment dated 27.06.2008, acquitted the appellants from the charges punishable under Sections 294, 506 (Part-II) of the Indian Penal Code and Section 3(1)(x) of the Act, 1989, however, convicted them under Section 324 r/w 34 of the Indian Penal Code and sentenced as stated hereinabove. The prosecution witness PW/5- Ramabai, PW/3- Pankhi Bai, PW/8- Amrit Lal, PW/6- Shiv Kumar supported the prosecution case and proved the incident as well as the involvement of the appellants in the commission of offence. PW/9- Dr. Sohan Lal explained the injuries sustained by Ramabai. The findings of the learned

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Special Judge in respect of conviction of the appellants under Section 324 r/w 34 of the Indian Penal Code are based on due appreciation of evidence and do not require any interference by this Court. The judgment of conviction is hereby upheld.

5. However, looking to the facts that the incident is of the year 2007; the prosecution has not brought any past criminal antecedent of the appellants on record; no minimum sentence is prescribed under Section 324 of the Indian Penal Code; the appellants remained in custody since 11.07.2007 to 13.07.2007, I deem it proper to reduce the jail sentence of the appellants to the extent of the period already undergone by them, accordingly, the jail sentence is reduced. The fine amount is enhanced from Rs.2,000/- each to Rs.5,000/- each. The appellants shall deposit the enhanced fine amount within a period of two months from today. The appellants are on bail, their personal bonds and bail bonds be discharged. Accordingly, the appeal is **partly allowed**.

6. Record of the trial Court be sent back along with copy of the judgment.

(VINAY SARAF)
V. JUDGE

Prachi

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