IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VINAY SARAF

ON THE 27th OF DECEMBER, 2023

CRIMINAL APPEAL No. 2094 of 2015

BETWEEN:-

KALAM AHMAD S/O NAZIR AHMAD, AGED ABOUT 32 YEARS, BHENSADEHI P.S. NAINPUR DISTT. MANDLA (MADHYA PRADESH)

.....APPELLANT

(BY SHRI R.S. RAJPUT - ADVOCATE)

AND

THE STATE OF MADHYA PRADESH THR. P.S. NAINPUR AJK MANDLA (MADHYA PRADESH)

.....RESPONDENT

(BY SHRI V.K. PANDEY - 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 appellant has challenged the judgment of conviction dated 03.08.2015 passed by Special Judge SC/ST (Prevention of Atrocities) Act, Mandla in S.T. No.29/2014 whereby the appellant has been convicted under Section 324 of IPC and sentenced to undergo R.I. for 6 months and fine of Rs. 1000/- in default 15 days R.I.

2. The learned counsel for the appellant has submitted that the prosecution failed to prove the case beyond reasonable doubt. During the trial, the appellant remained in custody from 29.09.2014 to 30.09.2014.

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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 Court has rightly convicted the appellant under Section 324 of Indian Penal Code.

4. After considering the arguments of both the parties and after perusal of record, it appears that on 09.09.2014, a report was lodged by Sita Ram against the appellant, which was registered as Crime No. 338/2014 at Police Station-Nainpur, District-Mandla , under Sections 323, 324, 294 and 190 of Indian Penal Code and under Section 3(1)(X) of SC/ST Act. After investigation, charge-sheet was filed. Prosecution has examined 10 witnesses in support of the prosecution case, whereas, the defence has not examined by anyone. The learned Special Judge considered the evidence by judgment dated 03.08.2015 acquitted the present appellant from the offences punishable under Section 3(1)(X) of SC/ST (Prevention of Atrocities) Act and 294 and 506 (Part-II) of IPC however, convicted under Section 324 of IPC and sentenced as stated hereinabove.

5. PW-2 (Sita Ram) has duly proved the incident however, PW-4 (Sevati Bai) has supported the statement of Sita Ram. PW-5 (Dr. Surendra Barkhede) explained the injuries sustained by Sita Ram. In view of above, no error committed by learned Special Judge in convicting the appellant under Section 324 of IPC and consequently, the judgment of conviction is upheld. It appears that findings of the learned Special Court is based on due appreciation of evidence and does not require any interference.

6. However, looking to the facts that the incident took place in the year 2014, the prosecution has not brought any past criminal antecedents of the appellant on record. There is no minimum sentence has been prescribed under

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Sections 324 of Indian Penal Code, I deem it proper to reduce the jail sentence of the appellant to the extent of the period which he has already undergone and accordingly, the jail sentence is reduced. However, fine is enhanced from Rs. 1000/- to Rs.5000/-. The appellant shall deposit the enhanced amount within a period of two months from today. The appellant is on bail, his personal bonds and bail bonds be discharged. Accordingly, the appeal is partly allowed.

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

(VINAY SARAF)
JUDGE

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