IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE PRAMOD KUMAR AGRAWAL

ON THE 29th OF DECEMBER, 2023

CRIMINAL APPEAL No. 6083 of 2017

BETWEEN:-

1. **BHARATDAS S/O RAMDAS PANIKA, AGED ABOUT 45 YEARS, R/O. VILL. CHARGAON P.S. NAINPUR DISTT. MANDLA (M.P.) (MADHYA PRADESH)**

2. **AJAY KUMAR @ AJJUDAS S/O BHARATDAS PANIKA, AGED ABOUT 22 YEARS, VILLAGE CHARGAON PS NAINPUR (MADHYA PRADESH)**

.....APPELLANT

(BY SHRI MUKESH PANDEY - ADVOCATE)

AND

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

.....RESPONDENT

(BY SHRI R.P. PRAJAPATI - PANEL LAWYER)

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

ORDER

This appeal has been filed under Section 374(2) of the Cr.P.C. against the judgment of conviction dated 24.11.2017 passed by the Special Judge (Atrocities), Mandla in Special S.T. No.36/2015, whereby learned Judge found the appellants guilty for the offence punishable under Section 325/34 of IPC and directed to suffer R.I. for six months with fine of Rs.1,000/- each with default stipulations.

2. Relevant facts, briefly stated are that on the basis of report lodged,

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Crime was registered against the appellants at Police Station Ajak, District Mandla for commission of offence punishable under Sections 458, 294 of IPC. After completion of investigation, charge-sheet has been filed before the competent Court.

3. After recording the statements of prosecution witnesses and appreciating the evidence led by parties, learned trial Court found the appellants guilty for the offence punishable under Section 325/34 of IPC and sentenced them as mentioned above. Being aggrieved with the impugned judgment, the appellants have preferred this criminal appeal before this Court.

4. Learned counsel for the appellants expressly gave up their challenge to the findings of the Court below so far as the conviction of the appellants is concerned. In other words, learned counsel for the appellants accepted the finding of conviction passed against the appellants, however, he challenged the quantum of punishment alone. It is submitted that the appellants are the only earning person in their family, they are the first offender and counsel assures that they will not involve in such criminal activities in future. It is also submitted that having regard to all circumstances which resulted in appellants' conviction and further keeping in view the fact that the appellants were facing the trial since the year 2015 and this appeal is pending since 2017, therefore, he prayed that their jail sentence be reduced suitably.

5. Learned counsel for the respondent/State has submitted that after appreciating the evidence produced by the prosecution, the Courts below have rightly found the appellants guilty for the aforesaid offence, therefore, no grounds are available for reducing the jail sentence awarded to the appellants, hence, he prayed for dismissal of the appeal.

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6. Having heard learned counsel for the parties and on perusal of entire record of the case, I am inclined to allow this appeal in part upon finding some force in the submissions made by the learned counsel for the appellants.

7. Though the appellants have not made any attempt to assail the finding of their conviction on merits, yet with a view to satisfy myself as to whether the findings of the Court below of conviction is legally sustainable or not, I perused the record and especially therein having so perused, I am satisfied that no case is made out to interfere in the findings of the Court below on merits. From the perusal of the record, it reveals that the finding of the trial Court is based on proper appreciation of oral and documentary evidence therefore, upheld the findings of conviction of appellants under Section 325/34 of IPC recorded by the Court below.

8. Considering the submissions of learned counsel for the appellants and period of jail sentence already undergone by appellants, which is about 18 days as on date and the fact that they have no previous criminal antecedents and looking to the facts and circumstances of the present case, I am of the considered view that the ends of justice would be met if the appellants sentenced for the period already undergone by them with some enhancement in the fine amount.

9. Consequently, the appeal is partly allowed. The impugned conviction is hereby maintained. However, the jail sentence imposed on appellants is reduced to the period already undergone by them and the sentence of fine is enhanced from Rs.1,000/- to Rs.5,000/- under Section 325/34 of IPC, which shall be deposited within a period of one month. In default of payment of enhanced fine amount within the stipulated period, the appellants shall suffer 1 month R.I. Appellants are on bail. Their bail bonds stand discharged. Amount

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of fine, if any, deposited earlier shall be adjusted.

10. With the aforesaid modification, the present criminal appeal stands **partly allowed and disposed of**.

Let a copy of this order alongwith record be sent to the court below for information and necessary compliance.

Certified copy as per Rules.

(PRAMOD KUMAR AGRAWAL)
JUDGE

Sateesh



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