

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
Criminal Appeal No(s) 2116 of 2009

Kishore & Anr.

Appellant(s)

VERSUS

The State of Madhya Pradesh

Respondent(s)

ORDER

This appeal arises from a judgment and order dated 22 January 2008 of a learned Single Judge of the High Court of Madhya Pradesh in Criminal Revision No 676 of 2003. The appellants stand convicted for an offence under Section 325 read with Section 34 of the Penal Code and have been sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs 1,500 each, in default whereof, they have been sentenced to undergo RI for three months.

The incident which gave rise to the present appeal took place on 5 July 2001 when the complainant, Dhyan Singh, was returning home by bus, after attending certain court proceedings. When the complainant alighted from the bus and was returning to his village, he was allegedly accosted by the appellants. One of the appellants, Indersingh, is alleged to have assaulted the complainant with a stone as a result of which he received an injury on his head. The other appellant, Kishore, is alleged to have assaulted him with a cycle chain on his legs and face. The FIR was lodged at 2110 Hrs. and Crime No. 105/2001 came to be registered. The medical examination of the complainant revealed that he had sustained

fractures to his left leg, toe and in the parietal region.

By a judgment dated 30 August 2003, the Special Session Judge, Mandaleshwar, West Nimar, Madhya Pradesh came to the conclusion that the commission of the offence was proved and convicted the appellants and sentenced them in terms as noted above. The Trial Judge relied on the evidence of PW-1, the complainant Dhyan Singh, who is an injured witness. Besides this, the learned Trial Judge adverted to the medical evidence which indicated the nature of the injuries which were sustained by the complainant.

The High Court has affirmed these findings and the judgment of conviction and sentence, in revision.

Mr. Sushil Kumar Jain, learned senior counsel appearing on behalf of the appellants has made an attempt to urge that the evidence suffers from inconsistencies. Alternatively, it has been submitted that the appellants have no criminal background and it would be appropriate, if they are released on the sentence undergone or are granted the benefit of probation under the provisions of the Code of Criminal Procedure, 1973¹.

We are not inclined to accept the first submission which has been urged on behalf of the appellants since we find that the material on the record before the Trial court was sufficient to sustain the ultimate conclusion which has been arrived at.

During the course of the hearing, the appellants have filed an additional affidavit indicating the fact that they have no criminal antecedents. Moreover, it emerges from the compilation of additional documents which has been placed on record that there were certain revenue proceedings between the complainant

1 "CrPC"

Dhyan Singh and the first appellant.

Having regard to all the facts and circumstances, we deem it appropriate and proper to release the appellants on probation under the provisions of Section 360 CrPC for a period of one year. Since the appellants are on bail, they shall execute bonds to the satisfaction of the Trial court.

The appeal is, accordingly, disposed of.

Pending application(s), if any, shall also stand disposed of.

.....J.
(DR. Dhananjaya Y Chandrachud)

.....J.
(Hemant Gupta)

New Delhi;
April 25, 2019

ITEM NO.104

COURT NO.11

SECTION II-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

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THE STATE OF MADHYA PRADESH

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Date : 25-04-2019 This appeal was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE HEMANT GUPTA

For Appellant(s)

Mr. Sushil Kr. Jain, Sr. Adv.
Mr. Puneet Jain, Adv.
Chisti Jain, Adv.
Mr. Abhinav Gupta, Adv.
Mr. Harsh Jain, Adv.
Mr. Abhinav Deshwal, Adv.
Ms. Pratibha Jain, AOR

For Respondent(s)

Mrs. Swarupama Chaturvedi, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal is disposed of in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(MANISH SETHI)
COURT MASTER (SH)(SAROJ KUMARI GAUR)
BRANCH OFFICER

(Signed order is placed on the file)