

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 47 OF 2009
[Arising Out of S.L.P. (Crl.) No.7738 OF 2008]

Ramdas *Appellant*

Versus

State of Madhya Pradesh *Respondent*

ORDER

Lokeshwar Singh Panta, J.

1. Delay condoned.
2. Special leave granted.
3. This appeal arises out of judgment dated 26.10.2007 passed by the High Court of Madhya Pradesh, Bench at Gwalior, whereby and whereunder the appeal preferred by the appellant has been partly allowed. By the impugned judgment, the learned Single Judge of the High Court altered the conviction of the appellant from Section 307 of the Indian

Penal Code (for short 'IPC') to Section 324 IPC recorded by the learned Sessions Judge, Morena, in Sessions Trial No. 190/1999 and sentenced him to suffer rigorous imprisonment for 3 years instead of 7 years as imposed by the trial judge. Fine of Rs.2,000/-, out of which a sum of Rs.1,500/- was ordered to be paid to Smt. Shakuntla Bai (PW-4) widow of deceased Krishna Sharma, has not been interfered with.

4. The incident leading to the prosecution of the appellant occurred on 20.08.1994 at Village Purawas Khurd, Police Station Sihoniy, District Morena, Madhya Pradesh. According to the prosecution, one month prior to the day of the incident, Shri Krishna Sharma purchased a she-buffalo from appellant Ramdas for a consideration of Rs.5,000/-. It was agreed between the parties that the amount of consideration would be paid after birth of calf of she-buffalo. On 19.08.1994, calf of she-buffalo was born. On the day of incident, i.e. 20.08.1994, at about 10 a.m. Shri Krishna Sharma went to the house of the appellant for the payment of Rs.5,000/- where Sheetal Prasad co-accused was also present. The appellant made a demand of Rs. 150/- towards interest

amount for which Shri Krishna Sharma did not agree because there was no such agreement between the parties to pay the interest of Rs.150/-. On this trivial issue, some altercation took place between the parties, as a result whereof the appellant dealt sickle blow on the back of the person of Shri Krishna Sharma. As a result of the said injury, blood started coming from the wound. The incident had been witnessed by Rajaram (PW-2), Ram Kishan (PW-3), Smt. Shakuntla Bai (PW-4) and Ram Swaroop (PW-5). After causing injury to the victim, the appellant and Sheetal Prasad both had fled from the scene of occurrence.

5. Shri Krishna Sharma, injured, lodged First Information Report under Sections 323/324/504/34 of IPC in the Police Station against the accused persons, on the basis of which the investigation was conducted by Lal Singh Yadav (PW-8) who recorded the statements of the witnesses, inspected the place of the occurrence and arrested the accused. Shri Krishna Sharma was medically examined by Dr. Jagdish Karkot (PW-7) on the same day who found following injuries on his person:

“One incised wound on the left side back of patient in the size of 1.4 cm x 2 mm x 1.3 cm.”

6. Injured Shri Krishna Sharma died on 01.07.1996 (near about 2 years after the incident). Therefore, Section 302 IPC was added in the chargesheet.

7. The learned Sessions Judge, on the basis of the evidence, charge-sheeted the appellant and the co-accused Sheetal Prasad under Sections 302/34 IPC.

8. Both the accused pleaded not guilty to the charges and claimed to be tried. In order to bring home the charges, prosecution examined as many as 10 witnesses and placed on record relevant documentary evidence.

9. The learned Sessions Judge, on scrutiny of the entire evidence on record, held the appellant guilty of the offence punishable under Section 307 IPC and, accordingly, sentenced him to undergo rigorous imprisonment for 7 years and to pay a fine of Rs. 2,000/-. Out of the said amount, a sum of Rs. 1,500/- has been ordered to be paid to Smt. Shakuntla Bai (PW-4), widow of deceased Shri Krishna Sharma. However, no tangible and convincing evidence has

been found against co-accused Sheetal Prasad, therefore, he was acquitted.

10. Being aggrieved, the appellant filed appeal under Section 374 (2) of Code of Criminal Procedure, 1973 (for short 'Cr.P.C') before the High Court. The learned Single Judge of the High Court allowed the appeal in part and altered the conviction of the appellant from Section 307 IPC to Section 324 IPC and imposed the aforesaid sentence upon him.

11. Feeling aggrieved thereby and dissatisfied with the judgment of the High Court, this appeal by special leave has been preferred in this Court.

12. Having heard Mr. T.S. Doabia, learned Senior Advocate for the appellant, this Court issued notice to the State of Madhya Pradesh confined to the question of quantum of sentence. Mr. Govind Goel, learned counsel has appeared on behalf of the State. Mr. T.S. Doabia, learned Senior Advocate, states at the Bar that the appellant has already undergone about 15 months of imprisonment in terms of the order of the High Court.

13. On our close scrutiny of the testimony of eye-witnesses - PWs 2 and 3 and having gone through the First Information Report (Ex.P/1), it is clear that on the date of the incident, all of a sudden altercation ensued between the appellant and deceased Shri Krishna Sharma on the issue of payment of Rs. 150/- as interest amount. There is no evidence on record to indicate that there was any previous enmity between the appellant and the deceased. The appellant is an agriculturist. Undisputedly, a single blow of sickle had been inflicted by the appellant on the back of the deceased. Dr. P.R. Pendharkar (PW-1) conducted an autopsy on the dead body of Shri Krishna Sharma who as stated above died on 01.07.1996. According to Dr. P.R. Pendharkar, 11 injuries were found on the dead body of the deceased, out of which injury no. 10 was incised wound allegedly inflicted by the appellant on the back side of the deceased. In the opinion of the doctor, injury nos. 1 to 9 were in the nature of 'Ulcers' and indirect outcome of injury no. 10. The opinion of the doctor proves that the deceased had not died due to direct result of injury no. 10 sustained by him. It is also pertinent to mention that the

occurrence had taken place on 20.08.1994 and since then the appellant has been prosecuting the present case for the last more than 14 years in various courts and in that process he undoubtedly has undergone mental agony and financial sufferings. In this view of the matter, in our considered opinion we feel that justice would be sub-served if the sentence imposed by the High Court, is reduced to the sentence already undergone by the appellant.

14. For the aforementioned reasons while maintaining the conviction of the appellant under Section 324 IPC, the sentence of 3 years imposed by the learned Single Judge of the High Court is reduced to imprisonment already suffered by the appellant.

15. Ramdas-appellant, who is in custody, is directed to be set at liberty and released forthwith unless wanted in connection with any other case.

16. With the above modification, the appeal is partly allowed.

.....**J.**
(Lokeshwar Singh Panta)

.....**J.**
(B. Sudershan Reddy)

New Delhi,
January 13, 2009