REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 7414 OF 2018
(Arising out of S.L.P.(Crl.) No.1118 of 2018)
(D.No.27815 of 2018)

Haribhau ....Appellant(s)

VERSUS

The State of Maharashtra ....Respondent(s)

J U D G M E N T

Abhay Manohar Sapre, J.

1. Leave granted.

2. This appeal is filed against the final judgment and order dated 20.04.2018 passed by the High Court of Judicature at Bombay, Nagpur Bench in Criminal Appeal No.258 of 2006 whereby the High Court while allowing the appeal with respect to other accused-

Babarao Shriram Chaudhary dismissed the appeal with respect to the appellant herein and confirmed his conviction and sentence awarded to him by order dated 10.04.2006 passed by the 3rd Ad-hoc Additional Sessions Judge, Washim in Atrocities Case No.28 of 2005 by which the appellant and Babarao had been convicted for the offences punishable under Sections 353, 294 and 504 read with Section 34 of the Indian Penal Code, 1860 (hereinafter referred to as "IPC") and had directed them to suffer rigorous imprisonment for three months with fine of Rs.500/- under Section 353/34 IPC and rigorous imprisonment for one month with fine of Rs.200/- under Section 504/34 IPC and rigorous imprisonment for one month with fine of Rs.100/- under Section 294/34 IPC. All the sentences were directed to run concurrently.

3. In short, the case of the prosecution is that Bala Saheb Ingole (PW-1) was serving as a teacher in Zilla Parishad Primary School at Januna, Tahsil Karanja District Washim (MH). On 05.04.2005, the appellant (Haribhau) and Babarao, who were Sarpanch and Member of the Gram Panchayat, Januna respectively visited the School and asked Bala Saheb as to why he came late in the School. Bala Saheb offered his explanation.

4. The explanation offered by Bala Saheb did not satisfy the appellant and Babarao, therefore, they asked Bala Saheb for book of circle-in-charge maintained by the School. Since Bala Saheb did not give the book, the appellant (Haribhau) caught hold of his shirt's collar and while using abusive language gave kicks and blows to him. They also gave threat to Bala Saheb for causing injuries endangering his life.

5. It is this incident which gave rise to lodging of FIR which was followed by the prosecution of the appellant (Haribhau) and Babarao for commission of offences punishable under Sections 353, 504 and 294 read with Section 34 of IPC and in addition under Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "the SC/ST Act").

6. By order dated 10.04.2006, the Additional Sessions Judge, Washim convicted the appellant and Babarao for the offences punishable under Sections 353, 504 and 294 read with Section 34 of IPC and awarded the sentences mentioned above. The appellant and Babarao were, however, acquitted for commission of the offence punishable under Section 3 (1) (x) of the SC/ST Act.

7. The appellant and Babarao felt aggrieved by the order of conviction and sentence and filed appeal before the High Court of Bombay, Nagpur Bench. By impugned order, the High Court allowed the appeal with respect to Babarao and acquitted him of all the charges leveled against him.

8. So far as the appellant (Haribhau) is concerned, his appeal was dismissed. In other words, the appellant's conviction and the sentence awarded by the Additional Sessions Judge was upheld giving rise to filing of this appeal by way of special leave by Haribhau in this Court.

9. Heard learned counsel for the parties.

10. Submission of learned counsel for the appellant was essentially one. According to him, out of total jail sentence awarded to the appellant, he has already

undergone one month actual jail sentence and since then he is on bail.

11. It was his submission that having regard to the nature of the offence committed by the appellant, his age (60 years), his spotless career throughout without any criminal antecedents and lastly, the fact that he has already undergone one month jail sentence in relation to the offence committed 13 years back, hence this Court while upholding the appellant's conviction may consider proper to alter the sentence awarded to the appellant and reduce it to the extent the period already undergone in jail by him and instead impose more fine on him to meet the ends of justice.

12. In reply, learned counsel for the respondent-State urged for upholding of the impugned order.

13. Having heard the learned counsel for the parties and on perusal of the record of the case, we find force

in the submission of the learned counsel for the appellant.

14. In our considered opinion, firstly, taking into account that the appellant has already undergone one month's jail sentence out of three months awarded to him, secondly, the fact that the incident in question is quite old and seems to have occurred at the spur of the moment, thirdly, the appellant has no criminal antecedent in his past life and lastly, he is not required in any other criminal case except the one in question which the appellant fairly did not deny having committed and rightly did not challenge his conviction, it is considered to be just and proper to alter the jail sentence awarded to the appellant from three months to the extent of period of one month which was already undergone by him and instead

enhance the total fine amount awarded under different Sections from Rs.800/- to Rs.15,000/-.

15. In view of the foregoing discussion, the appeal succeeds and is accordingly allowed in part. The jail sentence awarded to the appellant by the Courts below is altered and is accordingly reduced to the extent of period of one month which already undergone by him.

16. In other words, the appellant is now not required to serve any more jail sentence than what he has already undergone and at the same time the amount of the total fine awarded by the Courts below is enhanced from Rs.800/- to Rs.15,000/- for being paid to the complainant- Bala Saheb Ingole.

17. Failure to deposit the fine amount within one month would result in reviving the jail sentence awarded by the Courts below and the appellant will

have to then undergo the remaining jail sentence awarded by the Courts below.

18. Let the amount of fine be deposited by the appellant in Trial Court within one month from the date of this order for being paid to the Complainant.

.....J.
[ABHAY MANOHAR SAPRE]

.....J.
[UDAY UMESH LALIT]

New Delhi;
September 04, 2018