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CRA-5451-2023

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE DEVNARAYAN MISHRA

ON THE 8th OF JANUARY, 2025

CRIMINAL APPEAL No. 5451 of 2023

KRISHNA PRATAP @ KRISHNA KUMAR GUPTA

Versus

STATE OF MADHYA PRADESH

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Appearance:

Shri Om Prakash Dwivedi - Advocate for appellant.

Shri Dinesh Prasad Patel - Government Advocate for State.

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WITH

CRIMINAL APPEAL No. 5573 of 2023

RAVENDRA PRATAP SINGH @ MAHANT BAIS

Versus

THE STATE OF MADHYA PRADESH

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Appearance:

Shri Om Prakash Dwivedi - Advocate for appellant.

Shri Dinesh Prasad Patel - Government Advocate for State.

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CRIMINAL APPEAL No. 5643 of 2023

DURGESH GUPTA @ LALLU AND OTHERS

Versus

STATE OF MADHYA PRADESH

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Appearance:

Shri Alok Kumar Gupta - Advocate with Shri P.R. Yadav - Advocate for appellants.

Shri Dinesh Prasad Patel - Government Advocate for State.

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JUDGMENT

As these appeals are arising out of common judgement dated



08.04.2023, therefore, they are being decided by this common judgment.

These Criminal Appeals are preferred being aggrieved with the judgment dated 08.04.2023 passed by Additional Sessions Judge, Beohari, District - Shadol in Sessions Trial No.88/2017 whereby the appellants have been convicted for the offence punishable under Sections 147, 332/149 and 333/149 of the IPC and sentenced to undergo R.I. for 1 year with fine of Rs.1,000/- R.I. for 2 years with fine of Rs.2,000/- and R.I. for 5 years with fine of Rs.2,000/- respectively, with default stipulations.

2. The prosecution case before the trial Court, in nutshell, was that on 06.09.2017 at about 11:20 P.M. at night, the staff nurse Ritu Rani Singh (PW-6), Snehlata Pate (PW-1) and Dr. Hinopma Thakur were working as staff nurse and doctor in the Community Health Centre, Beohari. Dr. Nishant Singh Parihar (PW-7) was also working in Operation Theater in the Hospital, Beohari. A mob of 8 to 10 persons reached in the hospital and started recording video and asked where is the Block Medical Officer and after sometime, they started assaulting Dr. Hinopma Thakur and Dr. Nishant Singh Parihar (PW-7) and were abusing them and were stating that the accident patients were not treated properly and were wrongly referred that is why the accident patients died. Block Medical Officer was called who tried to pacify them but they were not ready to hear anyone and started assaulting and caused grievous injury to Dr. Nishant Singh Parihar (PW-7). They also assaulted Block Medical Officer, Dr. Rajesh Mishra (PW-3). Information was sent to Police on phone. Police and Executive Magistrate reached on the spot and pacified the matter. On the next day i.e. 07.09.2017 FIR as Crime



No.649/2017 was registered at Police Station - Beohari. Appellants were arrested and charge sheet was submitted against them for the offence punishable under Sections 294, 323, 506, 332, 333 & 353 read with Section 34 of the IPC.

3. The trial Court framed the charges under Sections 294, 506, 147, 332/149, 333/149 of the IPC. Appellants abjured the guilt and prayed for trial. The prosecution witnesses were examined. Appellants were also examined under Section 313 of the Cr.P.C.

4. Appellant Urmila Namdeo examined herself as defence witness and the defence has been taken by the appellant is that when the victims of the incident Pankaj Kumar Namdeo and Sonu Namdeo were brought for treatment at Community Health Centre, Beohari, Dr. Nishant Singh Parihar (PW-7) had not treated them properly and referred the victims to higher centre. No assistance of doctor as well as oxygen was provided and on that reasons the victims succumbed to injuries while they were on the way to higher centre. Dead bodies were brought to the hospital and they made the complaint to police and other authorities to defence themselves from shifting the liabilities, the false case has been registered. No injury was caused by the appellants. The appellants are family members of deceased persons who brought the dead bodies of victims to hospital mortuary and Durgesh Gupta being the news reporter reached on the hospital to cover the incident and has been falsely implicated in the case.

5. Learned counsels for appellants have submitted that appellants have been falsely implicated in the case. No such incident took place but the trial



Court has not considered the defence version properly and convicted the appellants. It is also submitted that trial Court on the technical grounds, has convicted the appellant for the offence punishable under Section 333 of the IPC as there is no cogent evidence that teeth was fractured due to incident and there was contradictions in the statement of Dr. Rajesh Mishra (PW-3), Dr. A.P. Patel (PW-4) and Dr. Nishant Singh Parihar (PW-7). Dr. Rajesh Mishra (PW-3) has stated that he was examined in the private clinic of Dr. A.P. Patel (PW-4) whereas Dr. A.P. Patel (PW-4) has stated that he examined the injured for the injury of teeth in the Community Health Centre itself and Dr. Nishant Singh Parihar (PW-7) has also submitted that he was medically examined at Community Health Centre. There is also contradiction regarding X-Ray of teeth conducted by Dr. A.P. Patel (PW-4) in the private clinic.

6. Learned counsel for appellants has submitted that there was no intention to cause the injury. Incident took place at the spur of movement and no pre planning was done. He also relied on the judgment of *Shaitan Singh vs. State of M.P., (2004) 1 MPWeekly Note 150*.

7. Learned counsel for appellants has submitted that the case under Section 333 of the IPC is not made out and also relied on the judgment of *Pushpraj Singh @ Jhallu Singh Patel vs. Sardalilal and others, 2013 CJ (MP) 494* held that when the pre-planning is not proven and appellants do not know that at the time of offence victims were working as Government Servant, the appellants cannot be roped for the offence punishable under Section 333 read with Section 149 of the IPC, hence, appellants be acquitted



from the charges. He has further submitted that in case the conviction of the appellants is maintained then the period of sentence be limited to the period already undergone.

8. Learned counsel for State has submitted that a mob led by Durgesh Gupta, assaulted the government servant doctors and caused the grievous injuries to Dr. Rajesh Mishra (PW-3) and Dr. Nishant Singh Parihar (PW-7) while they were discharging their public duty, hence, no leniency is required, thus, trial Court is rightly convicted the appellants/accused persons.

9. On the point of incident, Dr. Snehlata Patel (PW-1) has clearly stated that on the date of incident i.e. 06.09.2017, she was working as a staff nurse at Civil Hospital, Beohari at night. At about 11:30 some quarrel took place with Dr. Nishant Singh Parihar (PW-7) and some persons. She was on the duty along with Ritu Rani Singh (PW-6). On the rest of the point, she has not supported the case of prosecution.

10. Dr. Rajesh Mishra (PW-3) has also stated that on 06.09.2017, he was working as Block Medical Officer in the Civil Hospital, Beohari and 11:20 - 11:30 at night, duty nurse Ritu Rani Singh (PW-6) had informed him on phone that 7 to 8 persons have entered into the ward and are taking the photographs of patient and are stating that call the Block Medical Officer. On that time, duty doctors, Dr. Hinopma Thakur and Dr. Nishant Singh Parihar (PW-7) and nurse Ritu Rani Singh (PW-6) were working and when he reached on the spot, two boys who had died due to accident, were brought to Civil Hospital, Beohari for treatment. After primary treatment which had done by Dr. Nishant Singh Parihar (PW-7) they were referred to Medical



College, Rewa. The accused persons came to talk about on that point. Durgesh Gupta was saying himself to be a News Reporter, when he reached on the spot he saw that persons were taking photographs and Dr. Hinopma Thakur and Dr. Nishant Singh Parihar (PW-7) were working in the ground floor and appellants were abusing them. When he said to accused persons that come on the ground floor, they came and Dr. Nishant Singh Parihar (PW-7) also came out then accused persons started abusing Dr. Nishant Singh Parihar (PW-7) and assaulted him stating that he treated the patients negligently that is why they died. Accused persons torn his cloths and hit him on his neck, back and face and when this witness tried to intervene some one of the accused persons assaulted with fist on his face too and as a result his one teeth was damaged. He informed the Police and on that Police Beohari reached on the spot along with the SDM and situation was brought under control. He filed the written complaint (Ex.P-4) in the Police Station. He was medically examined and X-Ray was conducted of his teeth.

11. This witness Dr. Rajesh Mishra (PW-3) has further stated that Durgesh Gupta, Shivam, Sunil Mishra, Krishna Pratap, Ravendra Pratap Singh, Balmik, Ramesh and Smt. Urmila Namdeo were present on the spot. Dr. Nishant Singh Parihar (PW-7) identified the appellants namely Durgesh Gupta, Shivam, Sunil Mishra, Ravendra Pratap Singh, Balmik, Ramesh and Smt. Urmila Namdeo and stated that on 06.09.2017 when he was working as medical officer in the Civil Hospital, Beohari, his duty was from 8:00 PM to 8:00 AM and on that day in the evening, two boys namely Pankaj Namdeo and Sonu Namdeo were brought for treatment as they suffered injury in a



vehicular accident. After primary treatment, looking to the serious situation of the patients, he referred the patient to Medical College, Rewa but they died on the way and at 11:30 PM the dead bodies of boys were brought in the hospital and appellant Durgesh Gupta along with the parents of the deceased and some other persons, reached on the spot and started making video and making noise and stated abusing the staff. Ritu Rani Singh (PW-6) and Snehlata (PW-1) were working and when they advised not to make quarrel, accused persons asked them where is the Block Medical Officer. This witness along with Dr. Hinopma Thakur was working in the minor Operation Theater on the ground floor. The accused persons reached on the ground floor and started abusing them and stated that due to his mistake the injured persons have died.

12. This witness further stated that Dr. Hinopma Thakur and Dr. Nishant Singh Parihar (PW-7) informed the Block Medical Officer, Dr. Rajesh Mishra (PW-3) on phone and when he reached on the spot, accused persons started assaulting him with the hands, legs and fist. He suffered the injuries on his left jaw, face, left shoulder and his incisor teeth was damaged and also injured Dr. Nishant Singh Parihar. Injuries were threatening to life. Dr. Rajesh Mishra (PW-3) informed the Police, Police and SDM reached on the spot and matter was pacified and he was medically examined and in the X-Ray it was found that his teeth was damaged.

13. This fact is further supported by Ritu Rani Singh (PW-6) who has clearly stated that Durgesh Gupta, Ramesh and Balmik were present there and on the date of incident at about 10:00 PM, she was working in the



General Ward, appellant Durgesh Gupta reached there and asked about Dr. Nishant Singh Parihar (PW-7) and Block Medical Officer. She further stated that along with Durgesh Gupta, 12 to 15 persons were there and they started making video and were taking photographs and when she intervened in the matter, Durgesh Gupta said the he is a News Reporter. She informed the Block Medical Officer and when he reached on the spot, appellant Durgesh Gupta and other persons who accompanied him, started abusing. They were also abusing Dr. Nishant Singh Parihar (PW-7) as the two persons have died due to vehicular accident and when Dr. Nishant Singh Parihar (PW-7) and Dr. Rajesh Mishra (PW-3) reached on the ground floor, the appellants started assaulting them.

14. Thus, from the above, it is clear that the appellants were angry over the death of injured persons, died due to vehicular accident. They were treated by Dr. Nishant Singh Parihar (PW-7) who further referred the patients and they died on the way. Allegations made by the appellants that Dr. Nishant Singh Parihar (PW-7) had not properly taken care of the injured persons that is why they died and on this point they gathered there and after putting the dead bodies in the hospital.

15. Thus, it is clear that there was the reason and that is why they challenged the management of the hospital and when they did not satisfy with the answers, they assaulted Dr. Nishant Singh Parihar (PW-7) and Block Medical Officer, Dr. Rajesh Mishra (PW-3). The injured were medically examined by Dr. D.K. Parashar (PW-2) and Dr. A.P. Patel (PW-4), in which it was found that the victims namely Dr. Nishant Singh Parihar



(PW-7) and Dr. Rajesh Mishra (PW-3) suffered the injuries and there was a fracture in the teeth of Dr. Nishant Singh Parihar (PW-7) and that injury was grievous in nature. With the minor contradictions nothing has been brought on the record.

16. The FIR was registered before the Police Station - Beohari and Sub Inspector, D.P. Bhagat (PW-5) and Investigating Officer, Abhayraj Singh (PW-8) have proved the FIR.

17. The place where the offence took place is a hospital and it is clear that Dr. Nishant Singh Parihar (PW-7) had treated the injured of the incident, hence, all the accused persons were knowing that he is a government servant and they were calling the Block Medical Officer, Dr. Rajesh Mishra (PW-3) and when Dr. Rajesh Mishra (PW-3) reached there, they assaulted both the persons. Thus, it is clear that both the victims were government servants and injuries to Dr. Nishant Singh Parihar (PW-7) were caused on the ground that he did not treat the injured persons properly and Dr. Rajesh Mishra (PW-3) was Block Medical Officer, thus it is clear that injuries caused to the doctors who are the government servants and at the time of incident Dr. Nishant Singh Parihar (PW-7) was on the night duty and Dr. Rajesh Mishra (PW-3), Block Medical Officer being the head of Institution was also on the official duty.

18. Looking the facts and circumstances of the case, it is clear that appellants have committed the offence punishable under Sections 147, 332/149 & 333/149 of the IPC, thus, no substance on the merits of the case is found, hence, the conviction of the appellants is affirmed.



19. On the point of sentence, I have considered the fact in which this offence has taken place. On the date of incident, the son of Smt. Urmila Namdeo and Ramesh Namdeo was injured and died and in the same way the brother-in-law of Shivam @ Ashwani Kesharwani was also died in the same incident. Doctor after primary treatment, referred them to the higher centre but they died on the way. Dead bodies of the deceased persons were brought to the hospital which shows that these appellants were having in the mind that if Dr. Nishant Singh Parihar (PW-7) had properly taken care of the injured persons then patients would have been saved and on that point the quarrel started between the parties and appellants have committed the offence but there is no previous criminal record of these appellants.

20. The appellant Durgesh Gupta is in custody since the date of judgment i.e. 08.04.2023 and prior to that during trial he was in the custody for 1 month & 26 days, thus, he has suffered the period of incarceration approx 1 year & 10 months .

21. In the same way all the accused persons are in the custody since the date of judgment and Shivam and Sunil Mishra were in the custody for 1 month & 26 days during trial and Krishna Pratap, Balmik, Ramesh & Ravendra Pratap Singh were in custody for 17, 14, 14 & 17 days respectively except Smt. Urmila Namdeo who is in custody since the date of judgment.

22. Looking the facts and circumstances, their sentence for the offence punishable under Section 333/149 of the IPC is limited to two years. Thus for the rest of the Sections 147 and 332/149 of the IPC, the sentence of the



trial Court is upheld and for Section 333/149 of the IPC the substantial jail sentence is reduced from 5 years to 2 years R.I. and fine amount imposed by the trial Court is upheld.

23. With the above modification the appeals are partly allowed.

24. With the copy of the Judgment, the record of Trial Court be returned back.

25. Copy of the judgment be kept in the connected cases.

26. The record of these appeals be consigned to the record room.

(DEVNARAYAN MISHRA)
JUDGE

DPS