
(2014) 02 PAT CK 0116

In the Patna High Court

Case No : Criminal Appeal (SJ) No. 277 of 2002

Ajay Kant Jha

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 07-02-2014

Acts Referred:

Citation : (2014) 1 BBCJ 557

Hon'ble Judges : Akhilesh Chandra, J.

Bench : Single Bench

Advocate : Mr. Ajay Kumar Thakur, Advocate and Mr. Ravi Ranjan, Advocate, for the Appellant; Mr. Abhimanyu Sharma, Additional Public Prosecutor, for the State

Final Decision : Disposed Off

Judgement

Mr. Akhilesh Chandra, J.(Oral)—Heard the learned counsels appearing on behalf of the parties.

2. This is an application preferred by four appellants against conviction of appellant no. 1, namely, Ajay Kant Jha @ Bauku Jha, for the offence under Sections 504 and 325 of the Indian Penal Code, appellant no. 2, namely, Abhay Kant Jha, for the offence under Sections 504 and 323 of the Indian Penal Code, appellant no. 3, namely, Bishwanath Jha, for the offence under Sections 504 and 324 of the Indian Penal Code and appellant no. 4, namely, Chhatradhari Jha, for the offence under Section 323 of the Indian Penal Code, but they all ordered to be released on execution of a bond for Rs. 4,000/- each under Section 4 of the Probation of Offenders Act to maintain peace for a year, passed by 3rd Additional Sessions Judge, Fast Track Court, Madhubani on 15th May, 2002 in Sessions Trial No. 81 of 1995/ 116 of 2002 arising out of Raj Nagar P.S. Case No. 116 of 1994.

3. Since this appeal carries a very limited question, hence, there is no need to state further details of the prosecution case except that the appellants faced charge for the offence under Section 307/34 of the Indian Penal Code also and, ultimately, convicted and ordered to be released in the manner afore stated and

while admitting the appeal operation of the order shall stayed.

4. It is pointed out from the Bar that there is no report of Probation Officer in this regard and in absence of any such report or steps taken in this regard; the appellants could have been directed to execute the bond under the provisions of Probation of Offenders Act. Reliance is placed upon a decision of this Court in a case of "Upendra Nath Chaudhary v. High Court of Judicature at Patna & Anr." report in "2007 (2) PLJR 554".

5. In view of the above, such order is not at all sustainable and, taking into consideration, the case is of the year 1994 and about 12 years has already been elapsed in this appeal, no fruitful purpose can be served, if on the above point matter is remitted to the trial court. Hence, the judgment of conviction and order of sentence, as recorded by the trial court, is set-aside and the appeal is hereby allowed. The appellants abovenamed are set free from the liability to execute the bond under the facts and circumstances aforementioned.