
(2011) 07 PAT CK 0162

In the Patna High Court

Case No : Criminal Appeal (SJ) No. 64 of 1997

Amrendra Singh, Pramod Singh @ Loha Singh, Bipin Singh
and Paras Singh

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 04-07-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 149, 307

Citation : (2011) 07 PAT CK 0162

Hon'ble Judges : Anjana Prakash, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Anjana Prakash, J.—The Appellants have been convicted u/s 307/149 I.P.C. and sentenced to R.I. for five years by a judgment dated 28.2.1997 passed by the Additional Sessions Judge 1st, Barh in Sessions Trial No. 458 of 1991.

2. The case of the prosecution according to the informant is that on 11.2.1990 at about 10 A.M. the accused persons were found digging earth inside the boundary wall of the petrol pump of the accused persons for installing a hand pump, to which the informant objected since the alleged petrol pump belonged to him, at which the accused persons variously assaulted P.W.4, P.W.5, P.W.6 and one Subodh Singh with farsa, on account of which they sustained injuries. There was a counter version of the occurrence according to which while the Appellants were digging earth within their own boundary wall, the prosecution party assaulted them and also caused the death of one Vijay Singh, upon which Athmalgola P.S. case No. 40 of 1990 was instituted against the prosecution party.

3. During trial, the prosecution has examined eight witnesses. Out of whom, P.W.1 to P.W.6 are material witnesses, whereas P.W.7 is the doctor and P.W.8 is a formal witness.

4. The defence examined D.W.1 and brought on record the postmortem

examination report of Vijay Singh vide Exhibit C and such documents as also the injury reports of accused Vijay Singh and Appellant No. 2. They also brought on record the depositions of the doctors in the counter case to prove the fact that there was a counter version of the occurrence. P.W.5, the informant, has conceded in his deposition that the accused persons had filed Title Suit with regard to the land in question, in which the prosecution party were Defendants. He also conceded that he was arrested while he was in the Hospital and it was suggested to him that this occurrence had taken place while he was attempting to take possession of the land in question and forcibly entered the land of the Appellants and assaulted them, on account of which Vijay Singh had died. He denied the fact that the Appellants were digging earth of their own land as also the fact that they had assaulted Vijay Singh, on account of which he died. P.W.6, another injured eye witness, asserted that the accused were digging the earth which belonged to them and was in their possession. P.W.4 also an injured witness gave a fair narration of the prosecution case but failed to explain the counter version. P.W.3 is a formal witness, whereas P.W.2 has denied the factum of the counter version.

5. On going through the evidence on record, there is no denying that there was another version of the occurrence in which one Vijay Singh had lost his life and it therefore was the bounden duty of the prosecution to explain his death and in absence of the same a reasonable suspicion is raised in the mind of the Court that the true version of the occurrence has been suppressed by the prosecution. In such view of the matter, the prosecution case becomes unworthy of reliance.

6. In the result, the appeal is allowed and the order of conviction and sentence passed against the Appellants on 28.2.1997 passed by the Additional Sessions Judge 1st, Barh in Sessions Trial No. 458 of 1991 is set aside. The Appellants are discharged from the liabilities of their bail bonds.