
(2011) 11 PAT CK 0124

In the Patna High Court

Case No : Criminal Revision No. 608 of 2002

Asharfi Rai and Others

APPELLANT

Vs

The State of Bihar and Lalita Devi

RESPONDENT

Date of Decision : 21-11-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320
Penal Code, 1860 (IPC) — Section 147, 323, 452

Citation : (2011) 11 PAT CK 0124

Hon'ble Judges : Amaresh Kumar Lal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Amaresh Kumar Lal, J.—The accused- petitioners have preferred this revision application against the impugned judgment and order dated 16.3.2002 passed by the learned 5th Additional Sessions Judge, Samastipur in Cr. Appeal No. 111 of 1996 by which the order of conviction and sentence dated 18.7.1996 passed by the learned Judicial Magistrate, Ist Class, Samastipur in Complaint Case No. 104 of 1994, Trial No. 438 of 1996 has been confirmed and the appeal has been dismissed.

2. The prosecution case, in brief, is that opposite party no. 2 Lalita Devi filed Complaint Case No. 104 of 1994 on 10.2.1994 alleging therein that on 8.2.1994 at about 7 a.m. the accused petitioners scattered the cattle dung collected by her to which she protested, thereafter, the accused abused her she also abused them. There was an altercation, thereafter she ran to her house. All these accused entered into her house and assaulted her with fists and slaps. When her Debar came to her rescue, the accused also assaulted him and her minor son Ramesh aged about 5 years. The accused Asarfi Rai (petitioner no. 1) caught hold the neck of her son and started pressing it. Sita Devi also assaulted her son. Jaleshwar Rai took her gold ornament and accused persons also took away some house hold articles of the complainant. After the occurrence there was a

panchayati where the accused were asked to return the articles of the complainant but they did not. Thereafter, the complaint petition was filed. After enquiry cognizance was taken and charges were framed. After trial, all the accused were convicted and sentenced to simple imprisonment for one year each u/s 147 and 452 IPC and simple imprisonment for 9 months u/s 323 I.P.C. both sentences to run concurrently vide order dated 18.7.1996. Against this order they filed Cr. Appeal No. 111 of 1996. After hearing both the parties the judgment and order passed by the learned trial court was confirmed and the appeal was dismissed.

3. Learned counsel for the petitioners submits that both the parties have compromised the case and they have filed I. A. No. 788 of 2003 u/s 320 Cr.P.C. at Flag "B" and I. A. No. 789 of 2003 at Flag "C" for grant of permission to compound the case after setting aside the judgment passed by the appellate court as well as the trial court. It is submitted that both the parties have compounded the case due to intervention of well-wishers of both the parties and good feelings has been restored between both the parties. The prosecution party has no grievance against the accused-petitioners. It has also been submitted that the petitioners have remained in custody for some time. The occurrence has taken place on 8.2.1994 and since then the petitioners have been suffering from mental agony. More than 17 years have passed.

4. Learned counsel for opposite party no. 2 has supported the contention of learned counsel for the petitioners.

5. Considering the facts and circumstances it appears that the offence u/s 147 and 452 are not compoundable by the aggrieved party nor with the permission of the Court, as such the prayer for compounding the case cannot be allowed. Both the interlocutory applications stand disposed of.

6. It is an admitted fact that the occurrence has taken place on 8.2.1994 and the petitioners have been suffering from mental agony. They have also remained in custody for some time and both the parties have compromised the case out side the court and good relationship has been restored between both the parties.

7. Considering the facts and circumstances, in my opinion, it is a fit case in which the sentence of the petitioners can be modified. Accordingly, the sentence of the petitioners is modified and reduced to the period already undergone in custody.

8. With the aforesaid modification in the sentence, this revision application is dismissed.