
(2011) 04 PAT CK 0157

In the Patna High Court

Case No : Criminal Appeal (SJ) No. 141 of 1994

Bageshwar Singh and Lalji Bhagat

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 01-04-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 307, 323, 326

Citation : (2011) 2 Crimes 488

Hon'ble Judges : Anjana Prakash, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Anjana Prakash, J.—The Appellant No. 1 has been convicted u/s 326, 323 I.P.C. and sentenced to rigorous imprisonment for 3 years whereas the Appellant No. 2 u/s 323 and sentenced to rigorous imprisonment for 6 months by the judgment dated 7.5.1994 passed by the learned Ist Additional Sessions Judge, Siwan passed in Sessions Trial No. 277/1983.

2. The case of the prosecution is that on 8.5.1982 at about noon an altercation arose between the parties over plucking of the jack fruits in which an assault took place and the informant P.W.5 was injured. Initially the Appellants were charged u/s 307 I.P.C. but they were acquitted of the charges and convicted as mentioned above.

3. To prove its case the prosecution in all examined 5 witnesses out of whom P.W.4 and 5 are the injured themselves whereas P.W.3 is the son of the informant and P.W. 1 and 2 are eye-witnesses, the doctor was examined as P.W.6.

4. It has been submitted on behalf of the Appellants that in fact it was a case of free fight between the parties and the accused were also injured and the injury report were brought on record by Exhibit-A through D.W.1 and the D.W.2 proved the First Information Report of the said version .

5. The simple argument advanced on behalf of the Appellants is that none of the witnesses have explained the injuries on the accused which is fatal to the prosecution case since evidently the prosecution has not brought the true version before the court and on this score alone the prosecution case should be discarded the conviction of the Appellants be set aside.

6. On going through the evidence on record, I find that P.W.1 and P.W.4 have categorically denied the factum of the counter version even on a specific cross-examination on this point which leaves this Court to conclude that the prosecution has suppressed the genesis of the case and not come before the court with the true story.

7. In view of the discussions above, the appeal is allowed and conviction and sentenced of the Appellants passed by learned Ist Additional Sessions Judge, Siwan in Sessions Trial No. 277/1983 are hereby set aside and the Appellants are discharged from the liabilities of their bail bonds.