
(2013) 11 PAT CK 0005

In the Patna High Court

Case No : Criminal Appeal (SJ) No. 84 of 2002

Bujhawan Sahni and Others

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 25-11-2013

Acts Referred:

Penal Code, 1860 (IPC) — Section 307, 323, 325, 34, 379

Citation : (2013) 11 PAT CK 0005

Hon'ble Judges : Anjana Prakash, J

Bench : Single Bench

Advocate : Vinod Kumar, for the Appellant; C. Jawahar, Assistant Public Prosecutor, for the Respondent

Final Decision : Dismissed

Judgement

Anjana Prakash, J.—The Appellants have been convicted u/s 307/34 Indian Penal Code and a fine of Rs. 5,000/- each, in default of which further sentence to rigorous imprisonment for one year, as also u/s 379 Indian Penal Code, sentenced to rigorous imprisonment for two years, by the 3rd Additional Sessions Judge, Sitamarhi, passed in Sessions Trial No. 225 of 1987/36 of 2000 by a Judgment and order of conviction dated 4.2.2002. The case of the Informant is that on 8.12.1986 at about 11.00 A.M. when he was loading bundles of crop on his Bullock Cart being driven by Maru Paswan along with his son Rabindra Thakur, the accused persons variously armed came upon them and demanded the crops and when they refused, the accused persons assaulted them on account of which they were seriously injured.

2. During Trial, the Prosecution examined eight witnesses. PW-5 Kameshwar Thakur is the Informant whereas Rabindra Thakur, PW-4 is his son. PW-1 Ram Bachan Singh and PW-3 Dukh Bhanjan Thakur have supported the case of the Prosecution. PW-2 Maru Paswan is Bullock Cart Driver and Dukh Bhanjan Thakur PW-6 have been declared hostile. PW-7 Dr. Awadhesh Chandra Jha is the Doctor who examined the injured persons and found mostly simple injuries on them

whereas PW-8 Gyaneshwar Singh is the Investigating Officer.

3. During Trial, PW-5 Kameshwar Thakur repeated the entire manner of occurrence but also conceded that there were various serious disputes pending between the parties.

4. The Defence adduced documentary evidence to prove the fact that land in respect of the crops belonged to them and they had succeeded in the Civil Dispute for which there was no Appeal and hence, in the background of the various documents, the Prosecution case was fit to be disbelieved.

5. During Trial, the testimony of the Informant, PW-5, was entirely corroborated by his son PW-4 Rabindra Thakur but the manner of occurrence does not reveal that the Appellants had any intention to kill the two injured. It appears the Prosecution Party was assaulted only in order to express frustration at them for taking away crops belonging to them. In such circumstances, it is difficult to accept the Prosecution case in its entirety. Hence, even while, dismissing the Appeal, this Court would be of the opinion that at best a case under Sections 323 and 325 Indian Penal Code is made out and the sentence which have already been undergone by them, would be sufficient in the ends of justice. Hence, the Appeal is dismissed with modification in sentence.