
(2013) 12 PAT CK 0025

In the Patna High Court

Case No : Criminal Appeal (SJ) No. 343 of 2001

Dayanand Ram, Chhote Ram and Krishna Ram

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 11-12-2013

Acts Referred:

Penal Code, 1860 (IPC) — Section 323, 324

Citation : (2013) 12 PAT CK 0025

Hon'ble Judges : Anjana Prakash, J

Bench : Single Bench

Advocate : Mahesh Prasad, for the Appellant;

Final Decision : Allowed

Judgement

Anjana Prakash, J.—The Appellant No. 1 has been convicted u/s 324 Indian Penal Code and sentenced to rigorous imprisonment for one year whereas Appellants No. 2 and 3 have been convicted u/s 323 Indian Penal Code and sentenced to rigorous imprisonment for six months each by the Presiding Officer, Additional Court No. 1, Nalanda, in Sessions Trial No. 162 of 1990/33 of 2001 by a Judgment and order of conviction dated 25.9.2001. The case of the Prosecution according the Informant Sanjay Kumar is that on 18.7.1988 when he had gone to his fields, he saw she buffalos belonging to the accused persons grazing his crops. When he protested at this, the Appellants getting enraged, inflicted Hasua blow on his left neck. Thereafter, Appellants also assaulted him with fists and slaps.

2. The Defence of the Appellants was that they had been falsely implicated on account of the fact that they had been filed a case against the father of Informant prior to the present occurrence and the Prosecution wanted to withdraw the said case.

3. During Trial, the Prosecution examined four witnesses. PW-1 Ram Chandra Prasad stated that while he was coming to his house, he heard an alarm at which

he went to the fields and found Appellant Dayanand Ram catching hold of Sanjay Kumar and pointing a Hasua on his neck. The rest of the accused persons were standing there and saying that the Informant be killed. However, on their arrival, they fled away. He then took the Informant to Rajgir Hospital where he was treated.

4. PW-2 Om Prakash did not support the case of the Prosecution and, hence, was declared hostile.

5. PW-3 Ram Chandra Prasad stated that he was standing in his fields on the date of occurrence, when he was informed by his daughter that the Informant had been injured. He further informed that the Appellants had assaulted him. When he reached there, he found him injured and, thereafter, took him to the Hospital. However, the said Krishna has not been examined which renders the evidence of this witness meaningless.

6. PW-4 Sanjay Kumar gave similar version as that he had given out in the First Information Report. Even though, he states that he had been treated at Rajgir Hospital, no Doctor has been examined on behalf of the Prosecution. I also found that the Investigating Officer has not been examined.

7. I also find that it is a matter of record that earlier a Complaint was filed before the Sarpanch of Gram Panchayat on 15.7.1988 i.e. three days before recording of the present Fardbeyan on 19.7.1988. In which circumstances, it appears doubtful as to whether the subsequent First Information Report is the true version of the occurrence.

8. Hence, giving benefit of doubt to the Appellants, the Appeal is allowed. It also appears that for the occurrence dated 15.7.1988, Appellant Dayanand Ram had filed a case against the PW-1 and 3, thus, fortifying the defence of the Appellants that they have been falsely implicated so that they would withdraw the said case.

9. Considering the same, the Appeal is allowed. The order of conviction and sentenced dated 25.9.2001 passed against the Appellants in connection with Sessions Trial No. 162 of 1990/33 of 2001 by the Presiding Officer, Additional Court No. 1, Nalanda is, hereby, set aside. The Appellants are discharged for the liabilities of their respective bail bonds.