
(2009) 04 JH CK 0013
In the Jharkhand High Court

Deolal Uraon and Others

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 16-04-2009

Acts Referred:

Penal Code, 1860 (IPC) — Section 147, 148, 149, 307

Citation : (2009) 04 JH CK 0013

Hon'ble Judges : Pradeep Kumar, J

Bench : Single Bench

Judgement

Pradeep Kumar, J.—By Court: This appeal is directed against the judgment of conviction dated 16.1.2002 and order of sentence dated 18.1.2002 passed by Shri Mishri Lal Choudhary, Sessions Judge, Latehar in Sessions Trial No. 234 of 1991 against the appellants, out of whom appellant No. 2 to 8 and 10 were found guilty u/s 307/149 of the I.P.C. and sentenced to undergo R.I. for 4 years. They were also found guilty u/s 147 of the I.P.C. and sentenced to undergo R.I. for 6 months. Appellant No. 2 and 9 were found guilty u/s 307/149 and sentenced to undergo R.I. for 4 years and further they were found guilty u/s 148 of the I.P.C. and sentenced to undergo R.I. for 1 year. All the sentences were directed to run concurrently.

2. The prosecution case was started on the F.I.R. given by the informant (P.W.9), Bara Sibu Uraon is that on 21.10.1990 at about 10.00 a.m. at village Sisi, P.S. Latehar, District Latehar when they were cutting paddy in their field, all the accused persons came variously armed with lathi, tangi etc. and assaulted them causing injury to the informant and witnesses. The informant brought the injured persons to the police station where the F.I.R. was recorded. He has stated that the land belonged to them and they were growing crops in the land since long and when they were cutting the crops, the occurrence took place. He has stated that land dispute is going on between both the parties and case is pending. On the basis of the said F.I.R., police registered Latehar P.S. case No. 111/1990 and after investigation submitted chargesheet u/s 147, 148, 149, 447,

323,324,325,307 of the I.P.C against the accused persons. Since, the case was exclusively triable by the court of Sessions, therefore learned A.C.J.M. took cognizance of the case and committed the case to the court of Sessions. Finally the case was tried before the Sessions Judge, Latehar who after trial found the accused guilty and convicted and sentenced them as aforesaid.

3. Learned Counsel appearing on behalf of the appellant submitted that the prosecution has failed to prove the genesis of the case since it will appear from the counter case, F.I.R. ,Ext."F" proved by the defence that one of the member of the accused party namely Bartu Oraon died in the occurrence and injuries were caused to other members of the accused parties. But the prosecution has failed to prove the injuries. He has relied upon a decision reported in Lakshmi Singh and Others Vs. State of Bihar, stating therein that non explanation of the injuries on the accused persons has made the prosecution case doubtful. He has further submitted that by filing documents with regard to the land, the appellant have proved that the land belong to them and the informant party were cutting the paddy, which was not even ripe, by force. Hence the conviction and sentence is bad and fit to be set aside.

4. On the other hand, learned Counsel for the state has submitted that all the witnesses are injured and natural witnesses. The prosecution has proved by the evidence of Doctor, P.W.8 that eight persons were injured in the prosecution side. Their injury report is ext.1 to 1/7. He has further submitted that all the witnesses are natural witnesses and they have admitted that they are the accused in the counter case also and they also admitted that in the fight between both the parties, one of the accused member namely Bartu Uraon died due to the assault of the accused party. Thus, the prosecution has explained the death of Bartu Oraon and hence the conviction and sentence against the accused persons is well founded and requires no interference of this Court.

5. After hearing both the parties, I find that the prosecution has altogether examined twelve witnesses, out of whom except P.W.8 and P.W.12, all the witnesses are injured as well as accused in the counter case. P.W.1, Dhaneshwar Oraon has stated that on the date of occurrence at about 10.a.m. in the morning when he was cutting paddy in the field along with Bara Sibu Oraon, Jageshwar Oraon, Birju Oraon, Mahraj Oraon, Basu oraon, Lalji Oraon, Laldhari Oraon then the accused persons namely Bara Kaila Uraon, Rameshwar Oraon, Mangal Oraon, Rouna Oraon, Sukhdeo Oraon, Dhanulal Oraon, Surendra Oraon, Mahendra Oraon, Basudeon Oraon, Patia Oraon etc., all came variously armed with lathi, tangi and farsa and started assaulting them. Due to their assault, Gangeswar Uoaon, Jageshwar Oraon,Braj Oraon, Mahraj Oraon, Lalji Oraon, Basu Oraon, and Kaleshwar Oraon received injuries along with him. In cross examination at para 5 he denied that due to their assault Bartu Oraon died. He admitted that other persons were also injured. P.W.2, Birju Oraon has stated that time of occurrence is about 9 a.m. when they were cutting crop in their field, then all the accused persons variously armed with lathi, tangi etc. came there and assaulted them

causing injury to Gangeshwar Oraon, Jageshwar Oraon, Maharaj Oraon etc. He also received injuries on his hand. In para 7 of his cross examination, he has admitted that Bartu Oraon had come to stop them from cutting the crop and in the marpeet he died. He also admitted that the accused persons received injuries, but he cannot say as to who was injured. He also become unconscious by the injuries. P.W.3 Basudeo Oraon has also alleged the same thing that the accused persons came variously armed with lathi, tangi etc. when they were cutting the crops and gave injury to him and others. In para 3 he has stated that when the accused started assaulting , then Maharaj Oraon , Jagmohan Oraon received injuries and fell down and when Bartu Oraon went to save Maharaj and Jagmohan he was assaulted by the accused persons and he died. P.W.4, Gangeshwar Oraon also stated that the accused persons came variously armed with lathi, tangi and assaulted them when they were cutting paddy in their own land. In cross examination in para 8,9 and 10 he has stated that "marpeet" was being done from both side and thus, who came with Bartu Oraon also received injury. P.W.5, Bika Oraon has only stated that Bartu Oraon died in field. P.W.6, Jagmohan Oraon has supported the prosecution case and stated that accused persons came and started assaulting them when they were cutting crops in their field. He admitted that he is the accused in the counter case. In para 6 he also stated that Bartu Oraon came and asked them not to cut the crops and there after they started assaulting them. He cannot say as to how Bartu Oraon received injuries. In the side of Bartu, Mangla Oraon , Pandu Oraon and Ramu Oraon received injuries. He cannot remember the name of the other injured from the side of the accused. P.W.7, Maharaj Oraon has also stated that the accused persons came variously armed with lathi and tangi and started assaulting them when they were cutting crops in their land. He has also stated in para 5 that Bartu died in the occurrence and he is the accused in the counter case. In para 6 of his cross examination, he has stated that as they started cutting crops. "Marpeet" started from both side. P.W.8, Dr. Sidhnath has proved the injury of the seven witnesses as ext.1 to 1/7. P.W.9, Bara Sibu Oraon, informant of this case has supported the prosecution case as given by him in the F.I.R. and stated that he along with witnesses were cutting crops when al the accused persons came variously armed with lathi , tangi, pharsa etc. and started assaulting them. He received injury by lathi. Other witnesses also received injury. He took all the injured to the police station where statement were recorded. He identified his L.T.I. and stated that from there all the injured were taken to the Hospital. He also admitted in cross examination in para 9,10 and 11 that Bartu Oraon in course of "marpeet" died on the field itself, but he canot say as to how injury was caused to Bartu. P.W.10, Phulo Devi and P.W.11,Sugni Oraon have also stated that they were present at the place of occurrence and they also received injury on the head. They also admitted that their husbands are accused in the counter case. They also admitted that Bartu died in course of the occurrence. P.W.12, Mujibul khan is a formal witness who has proved the formal F.I.R.

6. Thus, from the prosecution witnesses it is clear that while the informant party

were cutting the crops in the field, all the accused persons came variously armed with lathi, tangi , farsa etc. and started assaulting them. The defence has examined two witnesses and proved the F.I.R. of the counter case marked as ext.F. From perusal of the ext.F, it appears that informant of the counter case which is Latehar P.S. case No. 10/1990, Rameshwar Oraon has stated that on the date of occurrence in the morning he found Gangeshwar Oraon with 20/25 persons were cutting paddy in his field. Where upon his brother came and asked him to go to the field. He along with Barthu Oraon, Kameshwar Oraon, Ramlal Oraon, Devlal Oran , Mangla Oraon and others went to the field and found all the accused persons cutting crops and when they stopped , then it is alleged that the accused started assaulting him with lathi, tangi , farsa etc. In the F.I.R. prosecution also admitted that the prosecution party of the present case were cutting crops in the field and it is the accused persons who came there along with 15/20 persona and stopped them from cutting crop and there after it appears that the fight took place from both the side. All the prosecution witnesses have admitted in the assault, accused persons were also injured and one of them, Bartu Oraon died on the spot. So it is not the case that the prosecution has not explained the injuries on other side. Both the F.I.R. shows tht the accused persons are the party who came and stopped the cutting of the crops where after the fight took place. It is immaterial whether the land was in the possession of the prosecution party or the accused. In that view of the matter, the case of the defence that injuries on the person of accused persons have not been explained and hence the prosecution case is doubtful is not tenable as far as this case is concerned. All the witnesses are injured persons and accused in the counter case have admitted that injuries were caused on both sides.

7. In that view of the matter, the learned court below has rightly found the accused persons guilty and convicted and sentenced them as aforesaid.

8. Hence, I find no merit in this appeal and this appeal is accordingly dismissed.