
(2013) 05 JH CK 0081
In the Jharkhand High Court
Case No : I.A. No. 1272 of 2013

Fatik Dom and Others

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 01-05-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 389
Penal Code, 1860 (IPC) — Section 302, 307, 34

Citation : (2013) 3 AJR 364

Hon'ble Judges : Shree Chandrashekhar, J; D.N. Patel, J

Bench : Division Bench

Advocate : Kaushik Sarkhel, for the Appellant;

Final Decision : Dismissed

Judgement

D.N. Patel, J.—The present interlocutory application has been preferred u/s 389 of the Code of Criminal Procedure for suspension of sentence of appellant No. 1, namely, Fatik Dom who is original accused No. 5 in the Sessions Case No. 221 of 1995/140 of 2002. Appellant No. 1 has been punished by learned 3rd Additional Sessions Judge, (Fast Track Court), Jamtara for life imprisonment for causing murder of the deceased u/s 302 of the Indian Penal Code to be read with Section 34 thereof. This appellant has also been punished for ten years rigorous imprisonment for the offence punishable u/s 307 of the Indian Penal Code to be read with Section 34 of the Indian Penal Code for endangering life of P.W. 1 who is the injured eye-witness. This Court has received records and proceedings of the Sessions Case and we have perused the same and heard the learned Counsel for both the sides, at length.

2. Having heard learned Counsel for both the sides and looking to the evidences on record, there is prima facie case against appellant No. 1 who is original accused No. 5 in the Sessions Case. As the criminal appeal is pending, we are not much analyzing the evidences on record, but, suffice it to say that the case of the prosecution is based upon more than one eye-witnesses who are P.W. 1,

P.W. 4 and P.W. 5 out of which P.W. 1 is the injured eye-witness. Looking to the evidences of these eye-witnesses, they have clearly narrated the role played by this appellant in causing murder of the deceased as well as in endangering life of P.W. 1. The injuries have been sustained by bomb-an explosive substance. Moreover, the depositions of these eye witnesses are getting corroboration by the deposition given by P.W. 8 Dr. S.K. Prasad who has carried out postmortem of the deceased. The injuries of P.W. 1 has been proved by the medical evidence given by P.W. 9 who is another doctor who has examined P.W. 1. Previously also, prayer for suspension of sentence was not granted by this Court vide order dated 11th May, 2005 and there is no change in the circumstance, thereafter. Looking to these evidences on record, there is prima facie case against this appellant.

Looking to the prima facie case and the gravity of offence, quantum of punishment and the manner in which appellant No. 1 is involved in the offences, as alleged by the prosecution, we are not inclined to suspend the sentence awarded to appellant No. 1 by the trial Court. There is no substance in this interlocutory application and, hence, the same is, hereby, dismissed.