
(2020) 01 JH CK 0205

In the Jharkhand High Court

Case No : Criminal Appeal (S.J.) No. 382,395 Of 2006

Gangadhar Mahto And Ors

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 16-01-2020

Acts Referred:

Indian Penal Code, 1860 — Section 147, 148, 149, 307, 323, 324, 341

Citation : (2020) 01 JH CK 0205

Hon'ble Judges : Rajesh Kumar, J

Bench : Single Bench

Advocate : A.K. Sahini, Sunil Singh, Sardhu Mahto

Final Decision : Disposed Of

Judgement

1. Heard the parties.

2. The present appeals are directed against the judgment of conviction and order of sentence dated 28.02.2006 passed by Sri B.K. Goswami, 1st

Addl. Sessions Judge, Bokaro in S.T. Case No.91 of 1998, whereby the appellants had been convicted under Sections 324/149, 148 and 341 of the

Indian Penal Code and all the appellants (except the appellant namely Arun Mahto) sentenced under Section 324/149 of the Indian Penal Code to

undergo simple imprisonment for two years and a fine amount of Rs.3,000/- each, in default of payment of fine further to undergo simple imprisonment

for one month each. Further each of four accused are sentenced under Section 148 of the Indian Penal Code to undergo simple imprisonment for two

years and a fine amount of Rs.3000/-, in default of payment of fine, further to undergo simple imprisonment for one month each. All sentences were

directed to run concurrently.

3. Chandankiyari P.S. No.50 of 1996 had been registered on the written statement of the informant namely Bhadrashil Kumar Manjhi (P.W.-3) on

14.08.1996. As per the prosecution story appellants armed with lathi, tangi etc. have come to persuade the informant side not to dig the soil and due to

which an altercation has taken place between the parties. The appellant side has assaulted the informant side, due to which injuries has been sustained

by P.W.1-Anil Kumar Manjhi, P.W.2-Golak Kumar Manjhi and P.W.3-Bhadrashil Kumar Manjhi (the informant). On the said statement, FIR had

been registered under Sections 147, 341, 323 and 324 of the Indian Penal Code.

4. On the basis of FIR, investigation has been conducted and appellants have been charge-sheeted under Sections 147, 341, 323, 324 and 307 of the

Indian Penal Code. Cognizance was taken. The case was committed to the Court of Sessions and charge had been framed under Sections 323, 307,

341, 324 read with Section 149 and 148 of the Indian Penal Code, to which the appellants pleaded not guilty and claimed to be tried.

5. Although eight witnesses have been shown as charge-sheeted witness but only four witnesses has been examined as P.W.-1, P.W.-2, P.W.-3 and

P.W.-4 and all have supported the incident. The doctor and I.O. have not been examined. Injury report has also not been brought on record.

6. The defense has produced Exts.A and B which shows that there was a case and counter case between the parties. Considering the nature of

injuries the appellant has been convicted under Section 324/149, 341 and 148 of the Indian Penal Code. They have been acquitted from Section 307 of

the Indian Penal Code. At this stage, counsel for the appellants have argued that the appellant namely Arun Mahto has been given benefit of probation

bond considering his age. The incident has taken place in the year 1996. The trial has been concluded in the year 2006 and the appeals are being heard

in the year 2020. Thus the appellants have suffered due to the pendency of litigation for long period i.e. 24 years. All the appellants are close relatives

and it is a neighbourhood dispute. Even injury has not been proved. In fact, neither the I.O. nor the medical officer has been examined in the present

case. Prayer has been made that the sentencing may be reduced considering the facts and circumstances of the present case.

7. Learned APP has opposed the prayer.

8. From the perusal of record, it appears that the scuffle has taken place and

some injury has been sustained by the both sides. There is a case and counter case between the both parties. The litigation has remained pending for 24 years and due to this the appellants had suffered.

9. In view of above discussion, the conviction of the appellant is, hereby, sustained but sentence is converted to fine and fine amount is enhanced from

Rs.3000/- to Rs.4000/- each. The appellants are directed to deposit the remaining amount within two months from today.

10. As the appellants are already on bail, they are discharged from liability of their bail bond.

11. Accordingly, these appeal are disposed off with the aforesaid modification.