
(2002) 08 PAT CK 0100

In the Patna High Court

Case No : Criminal Revision No. 263 of 2000

Haris Chandra Mishra @ Harichandra Mishra and Chhathu Sah APPELLANT
Vs
State of Bihar RESPONDENT

Date of Decision : 06-08-2002

Acts Referred:

Penal Code, 1860 (IPC) — Section 147, 379

Citation : (2002) 4 PLJR 730

Hon'ble Judges : B.N.P. Singh, J

Bench : Single Bench

Advocate : Rajesh Ranjan, for the Appellant; Din Bandhu Singh, for the Respondent

Final Decision : Dismissed

Judgement

B.N.P. Singh, J.—The Petitioners, who suffered conviction under Sections 379 and 147 of the Indian Penal Code (IPC) along with one Anil Mishra, and were sentenced to suffer rigorous imprisonment for term of six months on each count, aggrieved with, the findings recorded by the trial Court, preferred Cr. Appeal No. 33/6 of 1998/99, when the Appellate Court while upholding the findings, of guilt recorded by the trial Court on both the counts, reduced the sentence of the Appellants to a term of one month on each count with a direction that both the sentences would run concurrently. Now, the Petitioners, out of the three Appellants, have assailed the findings recorded by trial Court below which have been affirmed, also in appeal. Various submissions were canvassed at Bar, one of them, being that against the sentence of one month awarded to the Petitioners by the appellate Court, the Petitioners have Suffered custody for about ten days. Contentions were raised that the prosecution was launched against the Petitioners in the year 1986 and the parties had been litigating for land dispute with their bona fide claim over the disputed land.

2. Shorn of details first, I wish to recapitulate some of the salient features of the prosecution case with brevity, as they have been fairly spelt out in the judgments

of both the trial Court and the appellate Court. The complainant sued the Petitioners and one Anil Mishra on accusation of harvesting of crop from the field, bearing khata No. 693 and khesra No. 1990 measuring an area of 8 kathas 15 dhurs of land, on 4th of May, 1986. At trial, the complainant examined altogether six witnesses and three witnesses were also examined on behalf of the Petitioners with counter claim over the disputed land. As it appears that while the Petitioners had staked their claim over disputed land on the strength of deed of gift executed in name of father of Petitioner No. 1, complainant had been claiming title and possession over the disputed land on strength of mutation of land recorded in the name of his father. Be that as it may, the trial Court finding narrations made by the prosecution witnesses consistent, recorded finding of guilt and sentenced the Petitioners and Anil Mishra in the manner stated above and as has been stated, though the finding of guilt was upheld by the appellate Court, sentence was modified. Having critically analyzed the evidence placed on the record, on behalf of the parties, I do not find any flaw in the version of the State. However, one mitigating circumstance which merits consideration is that against the sentence of one month, the Petitioners have suffered imprisonment for ten days. The prosecution was launched about more than a decade ago and, since the Petitioners have undergone the ordeal of protracted prosecution for about 16 years, while upholding the finding of guilt recorded by both the Courts below, the period of sentence is reduced to the period already undergone and with this modification in sentence, this revision application is dismissed.