

(2012) 07 PAT CK 0039

In the Patna High Court

Case No : Criminal Appeal (U/S) No. 7 of 2000

Jagdish Prasad Yadav

APPELLANT

Vs

Anirudh Singh @ Bhulan Singh and Others

RESPONDENT

Date of Decision : 05-07-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 148, 149, 323, 342, 385

Citation : (2012) 07 PAT CK 0039

Hon'ble Judges : Sheema Ali Khan, J

Bench : Single Bench

Advocate : Abha Singh, Amicus Curiae, for the Appellant;

Final Decision : Dismissed

Judgement

Sheema Ali Khan, J.—Nobody appears on behalf of the petitioner to press this appeal. Accordingly, Ms. Abha Singh is appointed as Amicus Curiae to assist this Court in this appeal. This appeal is preferred against the judgment of acquittal dated 23rd December, 1999 by which the Opposite Parties 1 to 6 were acquitted of the charges levelled against them.

2. Initially, the Opposite Parties 1 to 6 were convicted by the order dated 27th July, 1999 passed by Shri A. B. R. Verma, Judicial Magistrate, 1st Class, Khagaria. The Opposite Parties 1 to 6 were convicted and sentenced to undergo rigorous imprisonment for two years under Sections 148 and 149 of the Indian Penal Code, rigorous imprisonment for six months u/s 342 and 323 of the Indian Penal Code and further rigorous imprisonment for two years u/s 385 and 387 of the Indian Penal Code. All the sentences were to run concurrently. The Opposite Parties preferred Criminal Appeal No. 45 of 1998, in which the Appellate Court has set aside the judgment of conviction and remanded the matter for fresh hearing from the stage of framing of the charges, which resulted in acquittal of the Opposite Parties 1 to 6 after re-trial.

3. This appeal arises out of a complaint filed by Jagdish Prasad Yadav in which he

claims that he along with his mazdoors were cutting the paddy from the field appertaining to khata No. 138 plot No. 191 measuring about 10 kathas. It is alleged that the Opposite Parties 1 to 6 came to the spot and took away 40 bundles of paddy. It is also alleged that the miscreants forcibly took the signature of the informant on two blank papers.

4. The Trial Court while considering the manner of the occurrence has primarily taken into account and rightly so, the claims of the Opposite Parties 1 to 6 as well as the complainant that the lands in question was recorded in the name of one or the other party and has also considered the question of possession. The conclusion reached by the Appellate Court is that the land in question was purchased by Adya Prasad Singh, father of the Opposite Party No. 1. The malguzari for the plot in question was also paid by them. Therefore, prima facie they were able to establish that they were in possession and have a valid title over the lands. Once the Trial Court came to this finding, the question that the accused persons came to the plot in question and took away the paddy crops forcibly cannot be believed as they had no reason to forcibly take away the crop that had been harvested.

5. In this context, and in view of the aforesaid facts, the evidence of witnesses, if examined, and taken into account would become weak as apart from their being discrepancies in the manner of the occurrence, the complainant has failed to prima facie show that he had title over the lands in question. Lastly, the Trial Court has concluded that all these matters if disputed can only be settled in a Civil Court. The Trial Court has thus rightly acquitted the Opposite Parties 1 to 6 (accused persons).

6. This Court finds that there is absolutely no ground made out in this appeal which would merit interference of this Court. In the result, this appeal is dismissed.