
(2011) 04 PAT CK 0084

In the Patna High Court

Case No : Criminal Appeal (SJ) No. 205 of 1995

Jaleshwar Singh and Sunil Singh

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 28-04-2011

Acts Referred:

Arms Act, 1959 — Section 27
Penal Code, 1860 (IPC) — Section 324

Citation : (2011) 04 PAT CK 0084

Hon'ble Judges : Anjana Prakash, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Anjana Prakash, J.—The Appellants have been convicted u/s 324 IPC and 27 Arms Act and sentenced to RI for two years under each count by the 9th Additional Sessions Judge, Patna in S.Tr. No. 744/89 by a judgment dated 15.09.1995.

2. The case of the prosecution is that on 16.10.1988 while the informant was engaged in getting his sugar-cane thrashed the accused persons came there variously armed and asked the informant to compromise earlier case but when he refused Appellant Jaleshwar Singh fired on account of which Kedar Singh was hit whereas firing of Appellant No. 2 injured Siyamani Devi.

3. The prosecution in all examined five witnesses out of whom P.W. 5 is the informant and P.W. 1 and P.W. 2 are the two injured. P.W. 3 and P.W. 4 are eye-witnesses of the occurrence. Neither the Doctor nor the Investigating Officer has been examined.

4. Even though P.W. 1, P.W. 2 and P.W. 5 have consistently supported the case of the prosecution with regard to injuries having been sustained by them but it is difficult to uphold their conviction u/s 324 IPC in absence of any medical corroboration in this regard and for this reason the conviction of the Appellants u/

s 324 IPC is set aside.

5. The Appellants were further charged with having fired at the two injured but no injury report has been proved by the prosecution and this Court is not inclined to uphold the conviction u/s 27 Arms Act only on oral evidence.

6. In the result, the appeal is allowed and the judgment dated 15.09.1995 passed by the 9th Additional Sessions Judge, Patna in S.Tr. No. 744/89 is set aside. The Appellants are discharged of the liability of their bail bonds.