
(2020) 07 JH CK 0096

In the Jharkhand High Court

Case No : Criminal Appeal (SJ) No. 39 of 2007

Jalha Oraon And Ors

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 10-07-2020

Acts Referred:

Indian Penal Code, 1860 — Section 147, 149, 323, 324
Public Works and Procurement Act, 1912 — Section 3, 4
Code Of Criminal Procedure, 1973 — Section 313

Citation : (2020) 07 JH CK 0096

Hon'ble Judges : Rajesh Kumar, J

Bench : Single Bench

Advocate : Md. Imtiaz Khan, Navin Kr. Ganjhu

Final Decision : Allowed

Judgement

1. This appeal is directed against the judgment of conviction and order of sentence dated 16.11.2006 passed by Sri Anant Kumar Singh, 18th Addl.

Judicial Commissioner, Ranchi, in Session Trial No. 423 of 2003/Session Trial No. 440 of 2003 whereby and whereunder the appellants have been

convicted for the offence under Sections 147, 323/149, 324/149 of the Indian Penal Code and under Section 3/4 of the P.W.P. Act read with Section

149 of the Indian Penal Code and has been sentenced to undergo R.I. for one year for the offence under Section 147 of the Indian Penal Code, R.I.

for six months for the offence under Section 323/149 of the Indian Penal Code, R.I. for one year for the offence under Section 324/149 of the Indian

Penal Code and R.I. for three months for the offence under Section 3/4 of P. W.P. Act read with Section 149 of the Indian Penal Code. All the

sentences were directed to be run concurrently.

2. The criminal law has been put into motion by lodging FIR at the instance of Soma Oraon (P. W.-3) alleging therein that the appellant Jalha Oraon

armed with Tangi has told him to come to the house of the accused at the night of 16.09.2002 stating that there is a village meeting on the allegation

that you are Bishaha. The informant refused to go. Thereafter in the morning on 17.09.2002, wife of Jalha Oraon had come to call the informant, but

he was not present in his house. Subsequently in the night at 7.00 P. M. on 17.09.2002 he went to the house of the accused persons with his sons

where they have been assaulted by tangi and lathi by the accused persons in their house and they have sustained injury. They immediately went to the

police station where the case has been lodged and appellants have been arrested and sent to jail.

3. Police after completed investigation has submitted charge sheet against the appellants under Sections 147, 323/149, 324/149 and 307/149 of the

Indian Penal Code and under Section 3/4 of P.W.P. Act read with Section 149 of the Indian Penal Code to which cognizance has been taken and the

case has been committed the Court of Sessions. Charge has been framed under Sections 147, 323/149, 324/149 and 307/149 of the Indian Penal Code

and under Section 3/4 of P.W.P. Act read with Section 149 of the Indian Penal Code. The charge has been read over and explained to the

accused/appellants to which they pleaded not guilty and claimed to be tried.

4. On conclusion of the prosecution case, statement of the accused persons were recorded under Section 313 of the Cr.P.C., in which they have

denied the allegations, rather it has been stated that the informant and his family members armed with weapons entered into their house and assaulted

the accused persons. There is also a criminal case lodged against the informant by the accused persons.

5. Being aggrieved, the present appeal has been filed.

6. To substantiate the charges, altogether eleven witnesses have been examined.

7. From perusal of the record, it appears that P. W. 4- Jatru Oraon, P. W-5, Budhram Oraon, P. W. 6-, Bandhan Gope, P. W. 7- Sani Oraon, P. W. -

8, Sani Oraon S/O Chandhey Oraon, P. W. -9, Manga Oraon, P. W. -10, Chilga Oraon are the villagers and they have turned hostile. They have

specifically stated that they have not seen the occurrence and they have not made any statement before the police. P. W. -1, Chapro Oraon, P. W. -2,

Somra Oraon (both are son of the informant) and P. W. -3, Soma Oraon (informant) are injured witnesses and they have supported the allegation

against the accused persons. In their testimonies, they have stated that accused persons have assaulted them with tangi and lathi when they reached

the house of the accused persons. In cross-examination, all the witnesses have admitted that there is a criminal case pending between the parties,

which was lodged by the accused persons in which the informant and his sons are already on bail. The place of occurrence is the house of the

appellants. The occurrence has been taken place on the eve of Karma festival and both the sides have sustained injuries. P. W. -11, Dr. Praveen

Chandra is the doctor, who has examined the P.Ws. - 1, 2 and 3 on 17.09.2002 and found all the injuries were simple in nature and the age of injuries

is within six hours.

8. Defense has produced two witnesses. D. W. 1, Dr. Ganesh Tiwary and D. W.-2, Champu Orain. D. W.-1 is the jail doctor, who has proved the

injury of accused namely Sukka Oraon and Jalha Oraon and has opined that injuries of both persons are simple in nature. D.W.-2, Champu Orain is

the wife of the accused Jalha Oraon. She has stated that the informant along with his four sons and his daughter have come to the house of the

accused armed with deadly weapon and has caused injury. Injury sustained by the informant party is in course of defense by the accused persons.

9. Perused the record.

It appears that all the witnesses including injured witnesses P.Ws. 1, 2 and 3 have admitted that place of occurrence is the house of Jalha Oraon and

further the injuries have been found simple in nature by the P. W.-11. It has been admitted by all the witnesses that a criminal case has been lodged

by the accused persons upon the informant parties in which they are already on bail. They have taken a plea that they have entered into the house of

the accused persons as they have been called by the accused persons. From the witnesses of P.Ws. -1, 2 and 3 and D.Ws.-1 and 2 and injury report

i.e. Ext. 1, 1/1, 1/2 and 1/3 and further the injuries of the accused have been marked as Ext. A and A/1. From the injury report and the testimonies of

P.Ws. and D.Ws., it appears that scuffle has been taken place between the parties. Place of occurrence is the house of the accused (Jalha Oraon). It

further appears that the appellant -Jalha Oraon has lodged the case against the

informant and his sons in which they are already on bail and that may be the reason for the present scuffle. Prosecution has failed to substantiate the fact that the accused persons were aggressor, rather evidence on record suggests that the informant and his family members were aggressor as they have entered into the house of the accused persons and picked up scuffle with them that resulted injuries to the both sides. The plea has been taken by the informant that injury caused to the informant and his sons were in private defense. Injuries have been properly explained.

10. In view of the above discussion and the material on record, this Court finds that there is sufficient doubt in the prosecution story and benefit of doubts is extended to the accused persons and accordingly, they are acquitted from the charges under Sections 147, 323/149, 324/149 and 307/149 of the Indian Penal Code and under Section 3/4 of P.W.P. Act read with Section 149 of the Indian Penal Code. Accordingly, the judgment of conviction and order of sentence dated 16.11.2006 passed by Sri Anant Kumar Singh, 18th Addl. Judicial Commissioner, Ranchi, in Session Trial No. 423 of 2003/Session Trial No. 440 of 2003 is hereby set aside.

Since, the appellants, above named, are already on bail, they are discharged from the liability of their bail bonds.

Accordingly, the instant Appeal stands allowed.