

(2012) 03 PAT CK 0091

In the Patna High Court

Case No : Criminal Appeal (SJ) No. 630 of 2004

Janardan Prasad Sinha and Sanjeev Kumar Sinha @ Babloo
Sinha @ Sanjeev

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 01-03-2012

Acts Referred:

Arms Act, 1959 — Section 27
Penal Code, 1860 (IPC) — Section 307

Citation : (2012) 03 PAT CK 0091

Hon'ble Judges : Mandhata Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mandhata Singh, J.—Prosecution case initiated on Fardbeyan of one Deonandan Singh, advocate, in brief, is that on 10.9.1998 at about 9.00 AM he was cleaning compound of his house. In the meantime, his neighbour Janardan Prasad Sinha and his son Babloo Sinha came and each shot firing from their country made Pistol with intention to kill, informant received two injuries one on the head and next one on the shoulder, after receiving the same he fell down on the ground. Hearing the sound his brother-in-law Anil Kumar Singh, Dipendra Singh, Hemant Singh and others reached there but both persons fled from there. Informant was brought to Sadar Hospital, Munger, admitted there for treatment. The reason behind the incident was dispute for the house in which he was residing.

2. The trial is ended in conviction and sentence to accused appellants for the offence u/s 307 of the Indian Penal Code and 27 of the Arms Act.

3. In all 13 witnesses are examined in the case and they are P.W.1 Deonandan Singh, P.W. 2 Kamalapati Singh, P.W.3 Deependra Kumar Singh, P.W. 4 Parmeshwar Prasad, P.W.5 Dharmendra Kumar Singh, P.W. 6 Anil Kumar Singh, P.W. 7 Premniti Prasad Singh, P.W. 8 Alok Kumar, P.W. 9 Sadhu Saran Choudhary I.O. of the case, P.W. 10 Krishnandan Singh, P.W. 11 Sheonandan Prasad Yadav,

P.W. 12 Dipal Mandal and P.W. 13 Dr. Umesh Kumar Pd. Singh.

4. P.W. 9 is relevant on the point of his fair investigation, P.W. 13 is the doctor who examined the informant and issued injury report. Of them (witnesses) P.Ws. 10, 11 and 12 are not charge-sheeted witnesses but they are not the only witnesses to corroborate the prosecution case rather P.W. 1 informant of the case, P.W. 3, P.W. 5 and P.W. 6 are the witnesses on the point of taking place of the incident in the manner laid down in the F.I.R. Of them, P.W. 3 is doubted on the point that P.W. 1 is stating about coming of the witnesses after hearing the sound of firing and he (P.W. 3) is stating about hearing alarm of P.W. 1 but he is on the point of watching the informant injured by fire arm injury and presence of the accused persons there which also is corroborated by P.Ws 5 and 6. Moreover, admitted enmity was there in between the parties and P.W. 1 victim and injured of the case is there to state about firing by both the accused appellants. Two injuries are found on the person of the informant, one on shoulder and next one on head. Head injury has been opined caused by hard and blunt substance but laceration is there which is possible by fire arm also. So there remains nothing to doubt the prosecution case, moreover statement of witnesses namely P.Ws. 1,3,5 and 6 including others are elaborately discussed by the trial court in its judgment taking into consideration infirmities raised here also and are replied satisfactorily.

5. Now remains the sentence, on this point submission is that the dispute was for the house in which informant brother-in-laws' family members were residing, purchased from nephew of accused appellant no.1. The same has been given in their possession accepting their ownership, injuries are opined simple in nature, accused appellants at present are residing at Bangalore, so are entitled for liberal view on the point of sentence. This much of the circumstance is admitted to informant also. Incident is of the year 1998 and the conviction and sentence is awarded to appellants in the year 2004.

6. In the result, the appeal is dismissed. The judgment of conviction passed in S.C.No. 351/99 is affirmed with modification in sentence to the extent that the sentence which was awarded to appellants is minimised to three years each for the offence u/s 307 of the Indian Penal Code and one year each for the offence u/s 27 of the Arms Act exonerating from the liability of fine with a direction to run both the sentences concurrently.

7. As the appellants are on bail, their bail bond is cancelled. They are directed to surrender in the court below to serve out rest of the sentence. The trial court is directed to take necessary steps to arrest the appellants forthwith.

8. Let a copy of judgment along with lower court records be sent back to the trial court forthwith.