
(2011) 09 JH CK 0012
In the Jharkhand High Court
Case No : Criminal Appeal No. 772 of 2002

Kalo Sona Dev and Others

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 15-09-2011

Acts Referred:

Arms Act, 1959 — Section 27
Criminal Procedure Code, 1973 (CrPC) — Section 360
Penal Code, 1860 (IPC) — Section 147, 148, 452

Citation : (2012) 2 JCR 148

Hon'ble Judges : R.K. Merathia, J

Bench : Single Bench

Advocate : Dilip Kumar Chakraborty, Amicus curiae, for the Appellant; S.N. Rajgarhia, APP. for the State, for the Respondent

Final Decision : Dismissed

Judgement

R.K. Merathia, J.—Nobody appears on behalf of the appellants to press this appeal. It appears that nobody appeared on 23.09,2010 when the case was called out. Accordingly, Mr. Dilip Kumar Chakraborty, learned panel lawyer, is appointed as Amicus Curiae to assist this Court. Mr. S.N. Rajgarhia. learned State counsel appears for the State. Both are directed to assist this Court in this appeal in the second half.

Later on:

2. Heard the parties on the merits at length.

3. This appeal is directed against the judgment of conviction and order of sentence dated 08.11.2002 passed by the learned Additional Sessions Judge, Fast Track Court, Saraikella-Kharsawan in Sessions Trial No. 293 of 1996 convicting the appellant-Kalo Sona Dev under Sections 148 and 452. IPC and u/s 27 of the Arms Act and sentencing him to undergo R.I. for one year u/s 148, IPC, R.I. for three years u/s 452, IPC and R.I. for three years u/s 27 of the Arms Act,

whereas appellants-Prabhakar Nath Shahdeo and Kishan Dev were convicted under Sections 147 and 452, IPC and sentenced to undergo R.I. for one year u/s 147 and R.I. for three years u/s 452, IPC.

4. After hearing the parties and going through the records carefully, when I indicated that no grounds are made out for interference with the judgment of conviction passed by the trial Court against the appellants, learned counsel appearing for the appellants submitted that this case relates to the year 1995; and that the benefit of Section 360, Cr PC may be given to the appellants.

5. Mr. Rajgarhia, learned counsel appearing for the State, has got no objection to such prayer.

6. In the circumstances, the judgment of conviction passed by the trial Court against the appellants is upheld. So far as the sentence is concerned, the trial Court will ensure appearance of the appellants within six weeks, for complying with the provisions of Section 360, Cr PC. If they appear, the learned trial Court will proceed in terms of Section 360, Cr PC and if the appellants furnish bonds in terms thereof, they will be discharged from the bail bonds and they will not be required to undergo sentence imposed against them. However, if one or other appellant fail to appear before the trial Court, their bail bonds will be cancelled and he/they will be taken into custody for serving out at least half of the sentence awarded by the trial Court. With this modification in the sentence, this appeal stands dismissed.