
(2020) 01 JH CK 0024

In the Jharkhand High Court

Case No : Criminal Appeal (S.J.) No. 576 Of 2006

Ketra Mahto And Ors

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 17-01-2020

Acts Referred:

Indian Penal Code, 1860 — Section 147, 148, 149, 307, 323, 324, 325, 326, 448
Probation Of Offenders Act, 1958 — Section 4

Citation : (2020) 01 JH CK 0024

Hon'ble Judges : Rajesh Kumar, J

Bench : Single Bench

Advocate : Amit Keshri, Yogesh Modi, Ram Prakash Singh

Final Decision : Disposed Of

Judgement

1. Heard Mr. Amit Keshri and Mr. Yogesh Modi, learned counsel appearing for the appellants and Mr. Ram Prakash Singh, learned A.P.P. appearing for the State.

2. This appeal is directed against the judgment of conviction and order of sentence dated 04.04.2006 passed by Sri Anant Kumar Singh, Additional Judicial Commissioner-XVIII, Ranchi in Sessions Trial No.396 of 2004, whereby and whereunder the appellants have been convicted for the offence under Sections 148, 323/149, 324/149, 325/149 and 448/149 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for two (02) years for the offence under Section 148 of the Indian Penal Code, rigorous imprisonment for six (06) months for the offence under Section 323 read with Section 149 of the Indian Penal Code, rigorous imprisonment for two (02) years for the offence under Section 324 read with Section 149 of the Indian Penal Code, rigorous imprisonment for three (03) years for the offence under Section 325 of the Indian Penal Code and rigorous imprisonment for six (06) months for the offence under Section 448 read with section 149 of the Indian Penal Code. All the sentences were directed to be run concurrently.

3. The FIR has been lodged through the written statement of the informant namely Uma Shankar Yadav (P.W.-5) on 01.06.2002 which has been registered as Kanke P.S. Case No.51 of 2002 under Sections 147, 148, 149, 341, 323, 307 and 448 of the Indian Penal Code.

4. The story as disclosed in the fardbeyan is that the cattle of the brother of the informant has destroyed the crop of the appellants. The reason of scuffle between parties was grazing of field of appellants by She-Bufferalo of informant.

5. After conclusion of investigation, the appellants had been charge-sheeted under Sections 147, 148, 149, 323, 324, 325, 326, 307 and 448 of the Indian Penal Code to which cognizance has been taken and the case has been committed to the court of sessions. The charge has been framed under Sections 148, 323/149, 324/149, 325/149, 326/149, 307/149 & 448/149 of the Indian Penal Code to which appellants pleaded not guilty and claimed to be tried.

6. To substantiate the prosecution story, altogether twelve (12) witnesses have been examined.

P.W.1-Dr. Shambhu Prasad Singh has examined the injured persons in Kanke Nursing Home on 01.06.2006; P.W.2-Inerpatia Devi is the mother of the informant namely Uma Shankar Yadav (P.W.-5) and Sant Lal Yadav (P.W.-3) and she has supported the prosecution story; P.W.3-Sant Lal Yadav is a hearsay witness; P.W.4-Satendra Yadav is the eye witness and supported the prosecution story; P.W.5-Uma Shankar Yadav is the informant and an eye witness. He has stated that he was in his home when the incident has taken place; P.W.6-Rajendra Yadav is the brother of the informant and also an injured witness; P.W.7-Kesho Yadav is a hearsay witness; P.W.8-Shankar Yadav is an eye witness; P.W.9-Bahali Yadav is injured witness and supported the prosecution story; P.W.10 is Nand Keshwar Yadav; P.W.11 is Parma Rai and P.W.12-Dr. Anil Kumar has examined the injured namely Uma Shankar Yadav.

7. Counsel for the appellants has not assailed the judgment of conviction rather prayer has been confined to the sentencing part only. Referring to Section 4 of the Probation of Offenders Act, it has been argued that all the appellants are first offenders. One of the appellants is lady, the appellant no.2 is aged person of more than 90 years and some of the appellants are young boy, and as such, instead of sentencing they may be given benefit of under Section 4 of the Probation of Offenders Act.

8. Learned APP has opposed the prayer.

9. From perusal of record, it appears that the appellants and the informant are neighbours and co-villagers. The dispute has occurred for the reason of grazing of cattle in the agricultural field of the appellants and there is scuffle between the parties. The incident is of the year 2002. The trial has been concluded in the year 2006 and the appeal is being heard in the 2020. The appellants had been acquitted from the charged Sections 326 and 307 of the Indian Penal Code.

10. Considering the nature of injuries and age of the appellants and the period of litigation sentence of the appellants is converted to the fine. Accordingly, the sentencing part is modified and fine of Rs.1000/- is imposed to each of the appellants to be deposited within two months from today. The fine amount so deposited, shall be released in favour of the informant or his legal heirs.

With above modification, the present appeal stands disposed of.