
(2020) 10 JH CK 0058

In the Jharkhand High Court

Case No : Criminal Revision No. 810 Of 2014

Laljee Mahto And Ors

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 16-10-2020

Acts Referred:

Indian Penal Code, 1860 — Section 147, 148, 379, 427, 447, 504
Code Of Criminal Procedure, 1973 — Section 313

Citation : (2020) 10 JH CK 0058

Hon'ble Judges : Anubha Rawat Choudhary, J

Bench : Single Bench

Advocate : Bhaiya V. Kumar, Bishwambhar Shastri, Mahesh Tewari

Judgement

1. Heard Mr. Bhaiya V. Kumar, learned counsel appearing for the petitioners.
2. Heard Mr. Mahesh Tewari, learned counsel appearing on behalf of the informant.
3. Heard Mr. Bishwambhar Shastri, learned counsel appearing on behalf of the opposite party- State.
4. This criminal revision petition has been filed by the petitioners against the Judgment dated 12.05.2014 passed by the learned District & Addl. Sessions Judge-Ist Hazaribag in Criminal Appeal No. 111/2008 whereby and whereunder the learned appellate court upheld the conviction and sentence of the petitioners under Sections 147, 148, 379, 447, 427 and 504 of the Indian Penal Code and dismissed the appeal.
5. The criminal appeal was preferred by the petitioners against the Judgment of conviction and the order of sentence dated 02.07.2008 passed by the learned Judicial Magistrate, 1st Class, Hazaribag in G.R. Case No. 2758 of 2004 / T.R. Case No. 263/2008 (arising out of Ramgarh P.S. case No.407/2004 dated 07.11.2004) whereby and whereunder the petitioners were held guilty and convicted under Sections 147, 148, 447, 379, 427 and 504 of the Indian Penal

Code and were sentenced to undergo simple imprisonment for two years each under Sections 147, 427 and 504 of the Indian Penal Code and simple imprisonment for three years under Sections 148 and 379 of the Indian Penal Code each and to undergo simple imprisonment for three months each under Section 447 of the Indian Penal Code and all these sentences were directed to run concurrently. Arguments on behalf of the petitioners

6. It is submitted that in order to prove the charges prosecution has examined altogether 6 witnesses out of whom P.W. 4 Ramdas Mahto is the informant and P.W. 5 Ram Chandra Prasad is I.O. of the case. P.W. 1, 2, 3 and 6 are not only related witnesses but are highly interested witness as P.W. 1 Ganesh Sao is son of Late Triveni Sao who claims to be a purchaser of land of Khata No. 62 & 152. In this case not a single independent witness has been examined although in the evidences of the witnesses it has come that there were other persons present on the spot due to the reason best known to the prosecution. The learned counsel has also submitted that there are discrepancies regarding the date and time of recording of the statement of the witnesses and the witnesses have specifically stated that before 07.11.2004 the police never came at the place of occurrence. P.W. 5 is the I.O of the case who has stated in para 1 that on 7.11.2004 he was posted at Ramgarh Project O.P. as Assistant Sub Inspector and was allowed to conduct investigation to the case and the witnesses who have stated that the police had recorded their statement prior to 7.11.2004 are tutored witnesses and they were not present at the place of occurrence. There is abnormal delay of more than 7 days in lodging F.I.R. which creates doubts about the alleged occurrence. None of the witness has stated that actually who had grown the vegetable and sweet potato. Further the I.O. has stated that he has not made search of the house of the accused persons and in this case there is no recovery, either of any arms or alleged theft articles. P.W. 4 has stated that there are several cases between the parties and the accused persons are forcibly claiming their title over the place of occurrence land and has admitted that recently 144 Cr. P.C. proceeding was decided by the court of S.D.M. in which it was ordered to resolve the dispute by civil court.

7. He also submits that in this case one of the accused Dinesh Mahto has been tried and convicted by a regular court and his trial is vitiated because at that time he was minor aged about 14 years 10 months and 13 days which will be evident from supplementary affidavit to I.A No. 6161/2015 (filed for suspension of order of conviction) containing admit card of Dinesh Mahto issued by Vinoba Bhave, University, Hazaribag wherein his date of birth is recorded as 17.12.1989.

8. He further submitted that at present, they are living with their families and they are the only bread earners of their families. The Petitioner No.1 is aged about 68 Years and Petitioner No.5 is aged about 62 years and as such, sending them back to prison will not serve any fruitful purpose. The learned counsel has submitted that considering the aforesaid aspects of the matter, the sentence of the petitioners may be modified.

9. The learned counsel for the petitioners further submitted that there is substantial delay in registering of the case, in as much as, the case was instituted after expiry of about 7 days. The learned counsel has also submitted that the impugned judgements are perverse and they cannot be sustained in the eyes of law.

10. The learned counsel for the petitioners has relied upon following judgements passed by the Hon'ble Supreme Court: -

a) (1972) 3 SCC 841 (Ram Ekbal Rai and Ors. Vs. Jaldhari Pandey) ;

b) AIR 1962 S.C. 586 , (Suvvari Sanyasi Apparao and Another vs. Bodi Palli Laxminarayana and Another)

c) AIR 1965 SC 585 (Chandi Kumar Das Karmarkar Vs. Abanidhar Roy).

d) The judgement of the Hon'ble Supreme Court in the case of "Rajinder Kumar Vs. Shri Kuldeep Singh & Others" decided on 07.02.2014 in Civil Appeal No. 1873 of 2014 and other analogous cases to submit that in case of bonafide land dispute, the petitioners could not have been convicted for the alleged offence. It is submitted that from the trend of evidence on record it is apparent that there is bonafide land dispute between the parties and if under the bonafide claim of right, the crop is harvested by a person, the same cannot come under the purview of theft.

Arguments on behalf of the Informant

11. The learned counsel appearing on behalf of the informant Mr. Mahesh Tewari has vehemently opposed the prayer made by the petitioners and submits that both the courts below have passed speaking judgement by referring to the evidences on record that the informant party were not only in possession of the property, but had also cultivated the property. Since an argument was raised by the learned counsel for the petitioners that such finding is based on no evidence, the learned counsel for the informant has referred to the evidence of P.W. 4 particularly para 4 of his deposition to submit that he had clearly stated that he had cultivated the land and grown the crop which was destroyed /taken away by the petitioners.

12. The learned counsel for the informant has further submitted that there is no scope for interference so far as the conviction is concerned. On the point of sentence, he submits that it is up to the court to pass an appropriate order. He submitted that accordingly if this Court modifies the sentence in any manner, some amount may be directed to be remitted to the informant party.

Arguments on behalf of the Opposite Party-State

13. Learned counsel appearing on behalf of the opposite party- State has also supported the arguments advanced on behalf of the informant.

14. The learned A.P.P. appearing on behalf of the Opposite Party-State opposed

the prayer and supported the impugned judgments and submitted that as per Exhibit-4 which is Sale Deed dated 17.01.1974, the disputed land was purchased by the Informant which has been supported by prosecution witnesses and Exhibit-11, which is original rent receipt, proves that the disputed land was in possession of the Informant at the time of the occurrence. He further submitted that the documentary evidences of the prosecution have been fully corroborated by the oral evidence of all the prosecution witnesses regarding possession and cultivation of land by the informant and that the petitioners had committed the alleged offence. He also submitted that the Informant has suffered loss of his vegetable crops of Rs.10,000/- and sweet potato of Rs.1,500/-. He further submitted that both the learned courts below have recorded concurrent finding of facts and as such, no interference is called for under revisional jurisdiction.

15. He has submitted that Petitioner Nos.1 and 5 have criminal antecedents.

Findings of this Court

16. After hearing the learned counsel for the parties and after going through the impugned judgments and the lower court records, this Court finds that the Informant namely, Ramdas Mahto son of Late Jagarnath Mahto on 07.11.2004 at 04:45 P.M. lodged a written report before the Ramgarh police Station alleging therein that on 30.10.2004 at 02:30 P.M., the petitioners armed with sword, axe, bow and arrow came into Khata No.62, Plot No.243, area 7 decimals and Khata No.86, Plot No.235, area 17 decimals of land of the Informant wherein the Informant and his brother had sown potato, radish, tomato and brinjal and they destroyed the plants. It was further stated that the Informant was in peaceful possession over the said land after purchasing the same vide registered Sale Deed dated 17.01.1974. It was alleged that the petitioners dug out and took away sweet potato from his field and destroyed the other plants of potato, tomato, chilly, brinjal by ploughing the same and digging with spade. The petitioners caused loss of Rs.10,000/- and committed theft of sweet potato of Rs.1,500/-. When the Informant protested, the petitioners threatened and chased him and he ran away to save his life. He further stated that the occurrence was seen by several villagers.

17. On the basis of the written report, the case was registered as Ramgarh P.S. case No.407/2004 dated 07.11.2004 under Sections 147, 148, 448, 427, 379 and 504 of the Indian Penal Code and after completion of investigation, the Investigating Officer submitted Charge-sheet No.16/2005 dated 28.02.2005 against the petitioners under the said offences and on 07.05.2005, the learned C.J.M. took cognizance of the offence in the case against the petitioners under the same sections. On 11.08.2005, the charges were framed against the petitioners under Sections 147, 148, 448, 427, 379 and 504 of the Indian Penal Code which were read over and explained to them to which they pleaded not guilty and claimed to be tried.

18. In course of trial, the prosecution examined altogether six witnesses in the

case. PW-1 is Ganesh Sao, PW-2 is Bhagwan Das Mahto, PW-3 is Suresh Saw, PW-4 is Ramdas Mahto who is the Informant of the case, PW-5 is Ramchandra Prasad who is the Investigating Officer of the case and PW-6 is Basant Mahto who is son of the Informant and the scribe of the written report.

19. The prosecution exhibited the following documents :

- Exhibit-1 Written Report
- Exhibit-2 to 3 C.C. of Sale Deeds
- Exhibit-4 Sale Deed dated 17.01.1974
- Exhibit-5 C.C. of Judgment of Criminal Appeal
No.143/1997 passed by F.T.C.-1, Hazaribag
- Exhibit-6 C.C. of order of S.D.O.'s court
- Exhibit-7 C.C. of Survey passed by Settlement Officer
- Exhibit-8 Forwarding upon written report
- Exhibit-8/1 Endorsement on written report
- Exhibit-9 Signature on formal FIR
- Exhibit-10 Signature on Carbon copy of written report
- Exhibit-11 Original rent receipt

20. After closure of the prosecution evidence, the statements of petitioners under Section 313 of Cr.P.C. were recorded wherein they denied the occurrence and claimed to be innocent.

21. The defence did not adduce any oral evidence, but exhibited the following documents:

Exhibit-A C.C. of order passed in Title Suit No.22/74 Exhibit-B C.C of decree passed in Title Suit No.22/74 Exhibit-C C.C. of order dated 07.09.2007 passed in Title Suit No.88/2006

22. This Court finds that the learned trial court considered the oral and documentary evidences adduced on behalf of the prosecution and also the documentary evidence exhibited on behalf of the defence and summarized its findings in Para-14, 15 and 16 of its judgment which read as under:

"14. After the scrutiny of aforementioned oral and documentary evidences on record, I come to find that the informant has duly supported its case regarding unlawful assembly of the five accused named above on 30th November, 04 at 2.30 P.M. upon the two impugned plots of land bearing Khata No.62, Plot No.243, area 7 decimals (wherein sweet potato was grown by informant) and khata NO.86, Plot No.235, area 17 decimals (where crop of potato, reddish, tomato, brinjal etc.

was shown by informant himself) and which were fully damaged by the accused named above who were weilding farsha, talwar, etc. and assaulted him when he forbade them from doing so. The damage of crop by those accused amounted to Rs.10,000/- and they also digged out and took away sweet potato worth Rs.1,500/- from the impugned land.

Regarding possession of the land it has been stated by the informant that he and his brother had shown the crop therein and further that the land was purchased by them vide sale deed No.372 dated 17.1.74 (Exbt.4). The oral testimony of P.W.4 (informant) is duly supported and corroborated by P.W.-1, P.W.-2, P.W.-3 who are eye-witnesses to the occurrence. P.W.- 1 & P.W.-2 stated to have seen the occurrence while they were working in their own field. P.W.-1 has even told the exact area of land in which sweet potato, tomato, brinjal and radish were shown by the informant herein. P.W.-2 has stated that his own land is adjacent and touching to the impugned P.O. P.W.-3 has seen the occurrence from the road just 50/60 mtrs. away while passing by and he states that the crop were not fully grown-up and that when informant forbade them, the accused ran towards him for assaulting him where after he fled away. This witness also states that it was accused Jitu Mahato who was digging out the sweet potato which was filled up in five gunny bags and was weighing 10/11 mounds. P.W.-3 has also states to have seen the sale deed of the impugned land and he clearly states so in his testimony. P.W.-6 is the son of the informant who has scribed the written report and has proved the signature of P.S. Munshi Mantu Yadav over the written report as Exbt.10 and the land revenue receipt in respect of impugned land as Exbt.11.

In turn, the documentary exhibits viz Exbt.4 as stated above, also corroborates the testimony of informant and P.W.-3 as stated above. It is a sale deed regarding impugned land in favour of informant Ramdas Mahato. Further Exbt.11 i.e. original rent receipt in respect of impugned land dated 21.10.04 i.e. just before the occurrence dated 30.10.04 in favour of informant Ramdas Mahato, also duly corroborates the factum of possession of the impugned land by the informant at the relevant time. Further Exbt.6 which contains the report of C.O. regarding impugned land is also in favour of Ramdas Mahato. In view of this oral evidence corroborated by documentary evidence on record as discussed above I am of the considered opinion that the offence of roytng (punishable U/s. 147), weilding deadly weapons like farsha and talwar in their hand was indeed committed by the five accused named above. As the impugned land was in possession and was shown by the informant Ramdas Mahato and his brother on the relevant date and time the accused named above are also guilty of committing trespass punishable U/s. 447 I.P.C. (not U/s. 448 I.P.C. under which charge has been framed, as no house tresspass has been committed in this case) and also commission of offence of theft U/s. 379 I.P.C. for alleged digging out and taking away of sweet potato from the impugned land worth Rs.1,500/- as well as offence of causing intentional insult to provoke by breach of peace punishable U/s. 504 and mischief by damaging crops of the accused worth about Rs.10,000/-. The accused named above has been duly identified by the

informant and the P.W.s as stated above. The I.O. has properly established the P.O. by duly narrating the boundary of the P.O. which has not been disputed by the Ld. Advocate for defence.

15. On the other hand, the case of the defence is that title and possession of the impugned land on the relevant time and date of occurrence was with the accused persons herein and not with the informant of this case. In support of the same, three documents has been filed. Out of which Exbt.A is the certified copy of ex-parte order in favour of Chanu Mahato against Meeter Mahato whereas Exbt.B is the decree of the said order dated 23.9.75. Whereas Exbt.C is the order-sheet dated 7.9.07 in Title Suit No.88/06 between Khirodhar & others Vrs. Chanu Mahato & others. But from perusal of these document vis-à-vis the documents exhibited by prosecution it is clear that the document exhibited by the prosecution, viz rent receipt (Exbt.11) dated 21.10.04, report of C.O. dated 28.11.05 are nearer in time than those filed by the defence and from Ex-C, it is not clear that it relates to the impugned land. Hence, plea of the defence that the immediate possession of the land on the relevant date was in their favour not find much oral or documentary support. Hence, the same is not tenable.

16. But it has been vehemently argued by the Ld. Advocate for defence that this case is bound to fail for the sole reason that it is a case of bonafide land dispute and in his support, he refers to Exbt.C as stated above. In my opinion, it is admitted that there is rival claim of the parties over the impugned land, but Ex.C does not reveal that it is in respect of impugned land only. Further on the basis of oral and documentary evidence on record it has duly been established that on the alleged date and time of occurrence the impugned vegetables crops and sweet potato were shown by the plaintiff herein in respect whereof the offences as stated above were committed by the accused. Hence, notwithstanding previous litigation between parties, I am of the opinion that any offence as stated above cannot be committed merely taking the plea of bonafide land dispute. If it will be allowed, it would lead to chaos in society."

23. This Court further finds that the learned appellate court, after considering the evidences and materials on record, recorded its findings in Para-13 of its judgment which reads as under :

"13. Having heard the parties and after scrutinizing the entire evidences oral as well as documentary, I find that informant has lodged the case before Ramgarh police on 30.10.2004 at Ramgarh Project OP and accordingly his written report was registered by Ramgarh police on 07.11.04 in which the Informant has stated that on 30.10.04 at about 2.30 pm, when he was irrigating his potato in his field, he saw that all accused persons above named have destroyed his vegetables such as potato, radish, brinjal, chilly from his field bearing khata no.86, plot no.235, area 17 dec. and khata no.62, plot no.243, area 17 dec. He has also stated that all the accused persons have taken away his sweet potato by digging the same and ploughed the entire land. He has also stated that all the accused persons were armed with deadly weapons. He has categorically stated that the

accused persons have destroyed his vegetables worth Rs.10,000/- and taken away sweet potato worth Rs.1500/- and when informant protested they threatened for dire consequences and hence, he fled away. The witnesses have seen the occurrence and they have clearly stated that they have seen accused persons destroying the vegetables from the land of informant. So far the possession of the land is concerned, it has been clearly stated by the informant as well as by the witnesses that the said land was in possession of informant which is also evident from perusal of Ext.6 which is an order passed on 12.11.05 by SDM, Ramgarh u/s 144 Cr.P.C. He has categorically stated in the middle of page 5 that C.O., Ramgarh has submitted a report that the second party (informant of this case) have grown the vegetables in the land in question. The accused persons have not stated anywhere either in cross-examination, or in their statement that they have grown the vegetables in question. They have filed certified copy of order of Sub-Judge in TS No.22/74 dt. 13.9.74 shows that they have obtained an exparte order of the impugned land in khata no.62 and 86 in favour of Chanhua Mahto, plaintiff against defendant Mitar Mahto. Ext.B is the decree of the same title suit in favour of first party and against the second party. From perusal of said order and decree in T.S.

no.22/74 (Ext.A&B), it appears that plaintiff Lalji Mahto, Devchandran Mahto and others had filed a T.S. against Mitar Mahto (vendor of informant) in which he has obtained the exparte decree, whereas Ext.C is order sheet dt. 7.9.07 in T.S.

no.88/06 between Khirodar and others vrs Chano Mahto & Ors which only indicates that there is land dispute between vendor of the informant and accused persons and accused persons had obtained exparte decree in which informant has no knowledge but from perusal of rent receipt filed by the prosecution (ext.11 dt. 21.10.04) and the recent report of C.O. dt. 28.11.05, it transpires that land-in-question is in the possession of the informant as well as the vegetables destroyed by the accused persons have been grown by the informant on the date of occurrence. Under the aforesaid circumstances, I find that prosecution has proved that the land-in-question were in possession of informant at the time of occurrence and they have grown the vegetables and on the date of occurrence, all the accused persons armed with weapon came to the land of informant and destroyed the vegetables grown by them and took away sweet potato worth Rs.1500/-.

.....

In the instant case, I have to only see the possession of land-in-question and who has grown the vegetables on the date of occurrence and I have already discussed above that the prosecution has been fully able to prove the possession of land- in-question in favour of informant and also he has proved that informant has grown the vegetables.

.....

On the other hand, the accused persons have failed to prove that at the time of

occurrence they were in possession of land-in-dispute and they have grown the vegetables...."

24. Upon perusal of the judgements passed by the learned courts below it is apparent that the courts have given concurrent findings that there is rival claim in connection with the land which is the place of occurrence. It has also been found that the accused persons are claiming the property on the basis of ex-parte decree dated 13.09.1974 passed in T.S. no.22/74 against the vendor of informant and the informant is claiming it on the basis of sale deed dated 17.01.1974 (exhibit- 4) and rent receipt dt. 21.10.2004 (exhibit-11) and the date of occurrence is 30.10.2004. There is concurrent finding that the land-in-question was in possession of the informant as well as the vegetables destroyed by the accused persons have been grown by the informant on the date of occurrence and all the accused persons armed with weapon came to the land and destroyed the vegetables grown by them and took away sweet potato worth Rs.1500/- . On the one hand the informant had led evidence to show that the informant had sown the crop but the petitioners have not led any evidence to that effect. The evidence of the prosecution regarding date, time and place of occurrence are consistent and they have been thoroughly cross examined but they remained consistent. The learned courts below have thoroughly examined the evidence of the witnesses, considered the documentary evidences on record and convicted the petitioners by well-reasoned judgement. This Court finds that PW-4 (Informant) has fully supported the prosecution case. PW-1, PW-2 and PW-3 are eye witnesses to the occurrence and they have corroborated the version of the informant.

25. This Court is of the considered view that the petitioners have failed to show their possession over the disputed land at the time of the occurrence and they are the aggressors over the disputed land in which vegetable crops were sown by the informant.

26. So far as the judgment passed by the Hon'ble Supreme Court in the case of "Rajinder Kumar Vs. Shri Kuldeep Singh & Others" decided on 07.02.2014 is concerned, the same arises out of civil dispute and it has been cited to argue that even ex- parte decree is binding on the parties. There is no dispute on this proposition of law.

27. So far as the judgment passed by the Hon'ble Supreme Court reported in (1972) 3 SCC 481 (Ram Ekbal Rai and Ors. Vs. Jaldhari Pandey) is concerned, the said case does not apply to the facts and circumstances of this case. In the said case the appellant was convicted under Sections 379 and 143 of the Indian Penal Code and the complainant claimed to have purchased the land in auction sale and also claimed to have received physical possession of the land through process of court. The complainant of the said case also claimed to have remained in possession of that land till the date of incident. The learned trial court held that he was in possession of the land, had sown the crop and that the accused had forcibly taken away said crop and on that basis he was convicted under

Section 379/143 of the Indian Penal Code. The judgement was confirmed by the Sessions Judge and the High Court also dismissed the revision. The Hon'ble Supreme Court in the said case found that the specific case of the accused all through was that although the plot in question was auction sold, but the second wife of the original land holder had consistently asserted, right from beginning, that the decree was not binding upon her as she was not a party in the suit and that although a writ for possession was issued in execution proceedings following the decree but the same was only symbolic but the said plot all through remained in her possession. Thus, in the said case, the accused made a claim of possession of the land and the crop was harvested by them and therefore there was no question of stealing the crop and guilty of offence under Section 379 of the Indian Penal Code. The Hon'ble Supreme Court found that documents in the said case clearly indicated that the accused party had, from the inception, challenged the decree as not binding upon her and that she was in actual possession , she had opposed the mutation proceedings and the revenue authorities on such opposition refused to mutate the land in the name of the complainant. In this background the Hon'ble Supreme Court was of the view that the entire question of possession and even title was in extremely fluid state and therefore the question of complainant's possession on the date of the incident was not beyond controversy and it was found difficult to uphold the order of conviction and sentence.

28. So far as the judgment passed by the Hon'ble Supreme Court reported in AIR 1965 SC 585 (Chandi Kumar Das Karmarkar and Ors.Vs. Abanidhar Roy) is concerned the said judgment also does not apply to the facts and circumstances of the case. In the said judgment the accused were convicted under Section 379 of the Indian Penal Code although originally, they were charged under Sections 147/447/379 and 503/352 of the Indian Penal Code but the Magistrate convicted the appellants only under Section 379 of the Indian Penal Code. The charge was that they had committed theft of fish by fishing in a tank which was in possession of the complainant. The Hon'ble Supreme Court found that there was dispute between the parties which was pending before the Civil Court and the facts indicated that the decree was obtained by unfair means and possession was tainted by fraud and that the ex-parte decree was set aside and it was held that there was complete bonafide on the part of the appellants. The Hon'ble Supreme Court was of the view that the incident amounted to civil injury and not offence of theft. In such circumstances the Hon'ble Supreme Court acquitted the appellants. This court finds that the facts in the present case are totally different.

29. In the present case there was sufficient oral and documentary evidence on record for the learned trial court and the learned appellate court to give consistent finding that the land in question was in possession of the informant party and they had cultivated the same and that the accused had entered into the land, destroyed the crop and had also taken away certain crop and committed the alleged offence. The learned court below although recorded that there was land dispute between the parties and they were in litigating terms, but

in spite of that the offence was said to have been committed by well-reasoned judgments.

30. So far as the judgment reported in AIR 1962 S. C. 586 (Suvvari Sanyasi Apparao and Another vs. Bodi Palli Laxminarayana and Another) is concerned, the said judgment also does not apply to the facts and circumstances of this case. The District and Session Judge in that case had held that the matter was for decision of the civil court and that the case was not of theft and directed acquittal, but the High Court convicted the accused. The Hon'ble Supreme Court acquitted the convicts as the evidence prima facie established that the accused had taken possession of the property under bonafide claim of right. In the present case there is concurrent finding that the informant was in possession had sown the crop and the petitioners forcibly entered into the land, destroyed the crop and took away some of it. Thus, the facts of the present case are totally different.

31. As already discussed and held above , the learned courts below have given concurrent finding of facts in connection with the involvement of the accused persons and have convicted the accused and upheld their conviction and sentence by well speaking judgements. There is neither any illegality, nor any perversity in the impugned judgements calling for any interference in revisional jurisdiction by this court. The arguments of the accused regarding bonafide land dispute have also been duly considered and taken care of by the learned courts below and have been rejected by assigning reasons.

32. So far as the point that the petitioner Dinesh Mahto was a juvenile at the time of the incident is concerned , this court finds that no such plea was taken before the learned courts below and no such petition has been filed before this court to declare that the petitioner was juvenile at the time of the incident in the year 2004. Moreover, the age of Dinesh Mahto has been shown as 25 years on the dated of judgement i.e. on 02.07.2008 and accordingly he has been shown to be a major on the date of incident in the year 2004 and tried by regular court with other co-accused. Accordingly, the plea of Dinesh Mahto being juvenile on the date of the incident cannot be entertained and hence rejected.

33. However, so far as point of sentence is concerned, this Court finds that the petitioner no.1 is 68 years of age; petitioner no 2 is 36 years of age; petitioner no. 3 is 35 years of age ; petitioner no. 4 is 37 years of age and petitioner no. 5 is 62 years of age. Further, admittedly there are number of litigations between the parties as per the evidence recorded by the learned court below and the petitioner nos. 1 and 5 also have a criminal antecedent. The petitioners have remained in custody at least for a period from 07.08.2014 (date of execution of Vakalatnama from jail) to 17.11.2014 at the stage of revision. Admittedly, more than 15 years have elapsed from the date of incident and the petitioners have certainly faced the rigorous of the criminal case for such a long time and at the same time the informant has suffered due to the act of the petitioners. In the aforesaid background, this Court is of the considered view that the ends of

justice will be met if their sentence is modified to some extent and fine is imposed . Accordingly, the sentence-imposed upon petitioner no. 1 and 5, who have one criminal antecedent, is reduced to a period of 6 months with fine of Rs.10,000/- each and the sentence-imposed upon petitioner nos. 2 to 4 is reduced to the period already undergone in judicial custody with fine of Rs.5,000/- each.

34. The fine amount is to be deposited before the learned trial court within a period of 2 months from the date of communication of this order to the learned court below failing which the petitioners would serve the sentence imposed by the learned trial court and upheld by the learned appellate court. The 50% of the fine amount is directed to be remitted to the informant of the case upon due identification.

35. Bail bonds furnished by the petitioner nos. 1 and 5 are cancelled.

36. The petitioner nos. 2 to 4 shall be discharged of their liability under the bail bond upon deposit of the fine amount as directed above.

37. Let the Lower Court Records be immediately sent back to the court concerned.

38. Let a copy of this order be communicated to the learned court below through "FAX/e-mail".