

(2000) 05 PAT CK 0050
In the Patna High Court
Case No : Criminal Revision No. 695 of 1998

Mahabir Prajapat and Others

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 11-05-2000

Acts Referred:

Penal Code, 1860 (IPC) — Section 323, 325, 427, 447, 504

Citation : (2001) 1 PLJR 450

Hon'ble Judges : I.P. Singh, J

Bench : Single Bench

Advocate : Vijay Kumar, for the Appellant; Anant Prakash Sahay, for State and Nand Kishore Pd., for O.P. No. 2, for the Respondent

Final Decision : Dismissed

Judgement

I.P. Singh, J.—This revision petition is directed against the judgment dated 30th March, 1998 passed by the 4th Addl. Sessions Judge, Gaya in Cr. Appeal No. 12/97/58/96 by which he has affirmed the conviction and sentence passed by the judicial Magistrate, Gaya in complaint case No. 478/92 Tr. No. 199/96 by which all the Petitioners were convicted Under Sections 323, 427, 447 and 504 I.P.C. and were sentenced to undergo R.I. for six months each both under Sections 323 and 427 and one year each u/s 504 I.P.C. The Petitioner No. 2 was further convicted u/s 325 I.P.C. and was sentenced to undergo R.I. for two years. However, all the sentences were ordered to run concurrently.

2. The prosecution case in short is that the complainant filed a complaint case before the learned C.J.M. Gaya stating therein that on 10.7.92 at about 9.00 A.M. in the morning while he was ploughing his field with his son, the accused persons came with Lathi in their hands and began to abuse them in filthy languages. It has been stated that when the complainant protested the accused persons assaulted him and his son with Lathi which caused multiple injuries on their persons. In the complaint petition, it has been stated that the accused Mahabir assaulted the complainant by lathi which caused injuries on his buttock

and back side. The accused/Petitioner Kapildeo Prajapat assaulted the complainant by Lathi which caused fracture of his left hand. When his son wanted to save his father, he was assaulted by Bifla Devi by lathi causing injuries on his left shoulder and accused Kapildeo Prajapat also assaulted Rabindra Prajapat by lathi, causing injuries on his thigh and back. It has been further stated that after causing injuries on their bodies as stated above, the accused persons also took away the oxen and destroyed the paddy crops worth Rs. 200/-. The complainant thereafter went to police station with his son Ravindra Prajapat but no action was taken by the police. On the basis of the evidence and injury report learned Magistrate found that a prima facie case was made out and accordingly cognizance was taken and later on vide order dated 2.2.94 charges for the offence under Sections 323, 427, 447 and 504 of the I.P.C. were framed against all the three accused Petitioners and charges u/s 325 I.P.C. was separately framed against accused Kapildeo Prajapat. Thereafter, the trial concluded with the result as indicated above.

3. Perused the order impugned as well as the documents of both the courts below. The court below have discussed in detail the evidence of the witnesses. I do not find any illegality in the judgment impugned which may warrant interference by this Court. Coming to the argument of learned Counsel for the Petitioner that the occurrence took place in the year 1992 and there was a land dispute between the accused persons and the complainant. Moreover, all the Petitioners have remained in jail custody for some time. Therefore, some lenient view may be taken while awarding the sentence to these Petitioners. Having regarding to the submissions raised on behalf of the Petitioner that occurrence took place about eight years ago and they have been sufficiently punished during this prolonged litigation. Now, it would not be proper to send them in jail again to serve out the remaining period of sentence. In my opinion the end of justice would be met if the sentence of these Petitioners is reduced to the period already undergone by them with a fine of Rs. 500/- each to be deposited by these Petitioners within three months from the date of this order. In default they will have to undergo a sentence of R.I. for two months. It is made clear that the amount of fine if and when realised by these Petitioners, shall be paid to the complainant P.W. 5 Birju Prajapat and his son P.W. 2 Ravindra Kumar by way of compensation.

4. With the aforesaid modification in the sentence this revision petition is dismissed.