
(2011) 05 PAT CK 0099

In the Patna High Court

Case No : Criminal Appeal No. 44 of 1994 (S.J.)

Maresh Singh @ Maresh Prasad Singh and Others

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 05-05-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 147, 148, 149, 323, 360

Citation : (2011) 05 PAT CK 0099

Hon'ble Judges : Anjana Prakash, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Anjana Prakash, J.—The Appellants have been convicted u/s 323/149 I.P.C. and further the Appellants No. 3, 4, 12, 13 and 14 have been convicted u/s 148 I.P.C. and the rest u/s 147 I.P.C. but all of them have been given the benefit of Section 360 Code of Criminal Procedure and directed to be released on a bond of Rs. 2000/- with one surety each for maintaining peace for a period of one year by the 2nd Additional Sessions Judge, Vaishali at Hajipur in Sessions Trial No. 156 of 1988 by a judgment dated 22.1.1994 and 25.1.1994.

2. The case of the prosecution is that on 4.10.1987 the accused person came near the house of the informant and variously assaulted three persons on a minor matter of taking water from well.

3. The prosecution in all has examined nine witnesses. Out of whom, P.W. 3, P.W. 4 and P.W. 6 are on the factum of occurrence, whereas the P.W. 5 is tendered. P.W. 2 is the grand father of the informant, who is hearsay and P.W. 7 is the informant himself. P.W. 8 is the doctor, who examined the two injured.

4. On going through the evidence of P.W. 6, I find that even though he had deposed as an eye witness but he had not given such a statement before the Investigating Officer. It also appears that there was a counter version of the occurrence, for which Exhibit A has been proved by the defence. None of the

interested and material prosecution witnesses have explained the existence of the counter version which creates a reasonable doubt in the mind of the Court that the prosecution has not brought the true version before the Court.

5. In view of such, the appeal is allowed and the order of conviction and sentence passed against the Appellants on 22.1.1994 and 25.1.1994 passed by the 2nd Additional Sessions Judge, Vaishali at Hajipur in Sessions Trial No. 156 of 1988 is set aside. The Appellants are discharged from the liabilities of their bail bonds.