

(2011) 04 PAT CK 0176

In the Patna High Court

Case No : Criminal Appeal No. 52 of 1995 (S.J.)

Manohar Ram and Others

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 26-04-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 323, 380, 452

Citation : (2011) 59 BLJR 1430

Hon'ble Judges : Anjana Prakash, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Anjana Prakash, J.—The Appellant Nos. 3, 7 and 13 have been convicted u/s 323 I.P.C. and sentenced to R.I. for one year, whereas Appellant Nos. 9 and 11 have been convicted u/s 380 I.P.C. and sentenced to R.I. for seven years and the Appellant Nos. 1, 2, 4, 5, 6, 8, 9, 10, 11 and 12 have been convicted u/s 452 I.P.C. and sentenced to R.I. for seven years by the 2nd Additional Sessions Judge, Bhabua in Sessions Trial No. 501/72 of 1992 by a judgment dated 20.4.1995.

2. The prosecution case is that on 27.7.1991 at about 7 P.M. when the informant (P.W. 6) was sitting at his Dalan, the accused persons entered into his house and committed theft of certain articles.

3. During trial the prosecution has examined eight witnesses. Out of whom, P.W. 6 is the informant himself and P.W. 1, P.W. 2, P.W. 3, P.W. 5 and P.W. 6 belong to the same family and have deposed as eye witnesses. P.W. 4, who is an injured independent eye witness, has been declared hostile. P.W. 8 is the Investigating Officer, whereas P.W. 7 is the doctor, who examined the injured persons.

4. It has been submitted that from the evidence of the interested witnesses, it is apparent that there was active land dispute between the parties and there is a counter version of the same occurrence which had been stoutly denied by the

prosecution witnesses. In this background the prosecution case is not worthy of credence and the Appellants deserve to be given benefit of doubt. Further P.W. 4, who was the sole independent injured eye witness, has created a serious doubt about the prosecution case in not supporting the same during trial and hence the Appellants deserve to be acquitted.

5. I am inclined to accept the submissions on behalf of the Appellants.

6. In the result, the appeal is allowed and the order of conviction and sentence passed against the Appellants on 20.4.1995 passed by the 2nd Additional Sessions Judge, Bhabua in Sessions Trial No. 501/72 of 1992 is set aside. The Appellants are discharged from the liabilities of their bail bonds.