
(2005) 04 OHC CK 0036

In the Orissa High Court

Case No : Criminal Appeal No. 106 of 1987

Natabara Mallik and Others

APPELLANT

Vs

State of Orissa

RESPONDENT

Date of Decision : 15-04-2005

Acts Referred:

Penal Code, 1860 (IPC) — Section 148, 323, 324, 325, 34

Citation : (2005) 1 OLR 738

Hon'ble Judges : Sujit Barman Roy, C.J

Bench : Single Bench

Advocate : S.C. Sahoo and J.P. Ghose, for the Appellant; Government Advocate, for the Respondent

Judgement

Sujit Barman Roy, C.J.—This appeal is directed against the judgment dated 29.5.1987 passed by the learned Addl.Sessions Judge, Bhadrak in S.T. No. 79/4 of 1986 convicting the appellant Nos. 1 to 5 namely, Natabar Mallik, Bata Krishna Mallik, Raghunath Baral, Kuturi @ Mayadhar Rout and Bula @ Bidyadhar Mallik under Sections 148 and 325 read with 34 I.P.C. and sentencing each of them to suffer R.I. for one month in respect of their conviction u/s 325/34 I.P.C. though no separate sentence was passed in respect of their conviction u/s 148 I.P.C. Appellant No. 5 namely, Bidyadhar Mallik was also convicted u/s 324 I.P.C. and sentenced accordingly thereunder to pay a fine of Rs. 500/- in default to undergo S.I. for fifteen days. On the other hand, appellant No. 6 Narayan Rout was convicted under Sections 148/324 I.P.C. and was sentenced to pay fine of Rs. 500/- in default to undergo S.I. for fifteen days in respect of the conviction u/s 324 I.P.C. though no separate sentence was passed in respect of his conviction u/s 148 I.P.C. Appellant No. 7 Parsuram @ Panchhu Baral was also convicted under Sections 148/323 I.P.C. and accordingly was sentenced to pay fine of Rs. 500/- in default to undergo S.I. for fifteen days in respect of his conviction u/s 323 I.P.C. though no separate sentence was passed in respect of his conviction u/s 148 I.P.C.

2. Learned counsel for the appellant as well as learned Government Advocate have both taken me through the evidence on record. After considering the evidence on record, I do not find any reason to interfere with the finding of conviction and accordingly, I maintain their conviction for the respective appellants.

3. However, so far as appellant Nos. 1 to 5 are concerned, it appears from the lower Court record that they were in custody from 21.12.1985 to 3.1.1986 and in the process they suffered imprisonment for about fourteen days. Likewise, appellant Nos. 6 and 7 were also in custody for the same period and thereafter they were enlarged on bail. Since the appeal was filed in this Court way back in 1987, about eighteen years time has elapsed. The occurrence in question took place on 17.12.1985 and since then about two decade time has elapsed. After passage of such a long period, I consider it to be a case of great injustice if they are asked to serve out the sentence in full. I therefore, while maintaining the conviction of the appellants, as already stated above, I reduce their sentence to the period they have already undergone when they were in custody and accordingly dispose of this appeal with the aforesaid modification of the sentence only.