
(2011) 04 PAT CK 0037

In the Patna High Court

Case No : Criminal Appeal (SJ) No. 145 of 1994

Pashupati Nath Rai and Others

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 07-04-2011

Acts Referred:

Arms Act, 1959 — Section 27

Penal Code, 1860 (IPC) — Section 148, 149, 307

Citation : (2011) 04 PAT CK 0037

Hon'ble Judges : Anjana Prakash, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Anjana Prakash, J.—The Appellant Nos. 3 and 4 have been convicted u/s s. 307 and 148 I.P.C. and 27 of the Arms Act and sentenced to R.I. for seven years, one year and three years respectively, whereas the Appellant Nos. 1, 2, 5 and 6 have been convicted u/s 307/149 I.P.C. and sentenced to R.I. for seven years and the Appellant Nos. 1 and 6 have further been convicted u/s 148 I.P.C. and sentenced to R.I. for one year, whereas the Appellant Nos. 2 and 5 have been convicted also u/s 148 I.P.C. and sentenced to R.I. for six months by a judgment dated 31.5.1994 passed by the 1st Additional Sessions Judge, Saran, Chapra in Sessions Trial No. 78 of 1981/ 46 of 1990.

2. The prosecution case is that on 31.10.1980 a dispute arose between the parties over the house and property having been gifted to the wife of the informant and in course of which the accused persons are said to have variously assaulted the prosecution party and also fired at them.

3. The defence of the Appellants was that on 31.10.1980 at 11 A.M. when the accused persons went to harvest the paddy the prosecution party attempted to kill them and even charged on their house and in an attempt to save themselves the accused persons pelted stones, in course of which the prosecution party was injured and Baniapur P.S. case No. 1710 of 1980 was instituted for this

occurrence by the defence.

4. The prosecution has examined seven witnesses, whereas the defence has examined six witnesses to prove the counter version. P.W.1 is the informant of the case, whereas P.W.2 is his wife and P.W.3 and P.W.4 are injured. P.W.5 is the doctor, who examined the two injured and was of the opinion that all the injuries were simple in nature. P.W.6 and P.W.7 are formal witnesses.

5. On going through the prosecution evidence, I find that they have not sufficiently explained the counter version, which can not be denied since the documents and witnesses testified to the effect that there was a counter version of the occurrence. Under the circumstances, I am of the opinion that the prosecution has not been able to prove its case beyond all reasonable doubts since the genesis of the occurrence has not been explained by them.

6. In the result, the appeal is allowed and the order of conviction and sentence passed against the Appellants on 31.5.1994 passed by the 1st Additional Sessions Judge, Saran, Chapra in Sessions Trial No. 78 of 1981/ 46 of 1990 is set aside. The Appellants are discharged from the liabilities of their respective bail bonds.