
(2011) 04 PAT CK 0164

In the Patna High Court

Case No : Criminal Appeal (SJ) No. 229 of 1994

Prithivi Lal Deo and Others

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 19-04-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 147, 148, 307, 323, 324

Citation : (2011) 04 PAT CK 0164

Hon'ble Judges : Anjana Prakash, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Anjana Prakash, J.—The Appellants have been convicted u/s 452 IPC and sentenced to RI for two years whereas the Appellant Nos. 1, 2, 13, 17, 18 and 19 have been convicted u/s 148 IPC and sentenced to RI for two years and the remaining Appellants have been convicted u/s 147 IPC and sentenced to RI for one year. In addition the Appellant Nos. 4, 5, 6, 7, 9 and 22 have been convicted u/s 323 IPC and sentenced to one year RI and Appellant Nos. 2, 11, 13 and 19 have been convicted u/s 324 IPC and sentenced to RI for one year. Appellant No. 20 has been convicted u/s 325 IPC and sentenced to one year RI by the 1st Additional Sessions Judge, Darbhanga in S. Tr. No. 87/85/86/94 by a judgment dated 12.07.1994.

2. The case of the prosecution is that on 13.05.1984 at about 6.30 P.M. a dispute arose between the parties over cutting of a tree in which the accused persons variously assaulted a number of persons and also committed theft. The tree allegedly belonged to one Ram Bahadurlal Deo, the owner-ship of which was disputed. For the same occurrence another case was instituted on the side of the defence which is evident from paragraph 8 of the judgment.

3. The prosecution in all examined eleven witnesses out of whom P.W. 1, P.W. 2, P.W. 3, P.W. 4, P.W. 5, P.W. 6 and P.W. 7 are the eye-witnesses. P.W. 8 is the

Doctor whereas P.W. 9 is the Investigating Officer and P.W. 10 is the BDO who conducted the Test Identification Parade of the articles. P.W. 11 has alleged that he had stolen certain incriminating articles from the house of the Appellants which were put on Test Identification Parade.

4. Initially the Appellants were charged also u/s 307 IPC, 380 and 411 IPC but they were acquitted of the charges and convicted as stated above.

In effect, therefore, to a large extent the prosecution has been disbelieved by the Court below. Substantially the prosecution case was also to the effect that a theft had been committed by the accused persons in the transaction and this story was disbelieved by the Trial Court under the circumstances it is difficult to sift the chaff from the grain.

5. Moreover, on going through the evidence of the material witnesses, I find that they have categorically denied the counter occurrence which alone is enough to discard the prosecution case as untrustworthy.

6. In the result, the appeal is allowed and the judgment dated 12.07.1994 passed by the 1st Additional Sessions Judge, Darbhanga in S. Tr. No. 87/95/86/94 is set aside. The Appellants are discharged of the liability of their bail bonds.