
(2012) 01 PAT CK 0111

In the Patna High Court

Case No : Criminal Appeal (SJ) No. 219 of 1999

Ram Prit Rai and Others

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 23-01-2012

Acts Referred:

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

Citation : (2012) 01 PAT CK 0111

Hon'ble Judges : Mandhata Singh, J

Bench : Single Bench

Judgement

Mandhata Singh, J.—Prosecution case initiated on Fardbeyan of Ram Binod Rai informant of the case in brief is that on 5.3.1985 at about 2.00-2.30 PM he was returning after casting his vote in an election. He reached near the house of Ram Prit Rai and saw sudden appearance of Ram Prit Rai and Bhagwat Rai with Pistol who started firing on him with intention to kill. Pellets hit his chest on several places. He started running towards his house but other accused persons namely Amarnath Rai with Pistol, Hari Nath Rai, Bashishth Rai, Sudisth Rai, Dharm Nath Rai and Meghnath Rai with Lathi caught him and assaulted him with slaps. Witnesses appeared at the place of occurrence and saved him.

2. After concluding the trial, appellant nos.1 and 3 are convicted for the offence under sections 307 and 148 of the Indian Penal Code. Accused appellants Hari Nath Rai, Bashishth Rai, Dharm Nath Rai and Meghnath Rai are convicted for the offence under sections 147 and 323 of the Indian Penal Code and Amar Nath Rai is convicted for the offence under sections 148 and 323 of the Indian Penal Code.

3. Learned counsel for the appellants submits that appellant no.1 Ram Prit Rai has died during the pendency of this appeal.

4. In all six witnesses are examined in the case to substantiate the prosecution case and they are P.W.1 Rajendra Rai, P.W.2 Rajeshwar Prasad Yadav, P.W.3 Ram Binod Rai informant of the case, P.W.4 Sitaram Srivastava, P.W.5 Ram Naresh

Singh and P.W.6 Dr. Rajmani Prasad.

5. Though some infirmities were pointed out on behalf of learned counsel for the prosecution but at the end, sentence is pressed to consider if can be considered for minimum punishment to the period undergone. In this context, submission of learned counsel for the appellants is that political rivalry was there in between the parties that was the reason to involve all the appellants setting exaggerated story in which also appellant no.2 is 72 years old and remained in custody since 6.4.1985 to 12.8.1985 and 10.8.1999 to 30.8.1999 while rest of the appellants remained in custody since 15.3.1985 to 6.4.1985. According to learned counsel, in case the period undergone is recorded after minimizing the sentence then appellant nos. 3 to 7 come under one reservation that offences for which they are convicted do not fall under moral turpitude, of them appellant nos. 3, 6 and 7 in service will not affect their service career.

6. In the result, the appeal is dismissed with modification in sentence which is minimized to the period already undergone by the appellants in custody.

7. The conviction of the appellants is maintained with modification in sentence as mentioned above.

8. As the appellants are on bail, they shall stand discharged from their liability of bail bond.

9. Copy of judgment along with lower court records be sent back to the trial court.