
(2011) 04 PAT CK 0255

In the Patna High Court

Case No : Criminal Appeal (SJ) No. 146 of 1994

Rama Shankar Rai and Others

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 19-04-2011

Acts Referred:

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

Citation : (2011) 04 PAT CK 0255

Hon'ble Judges : Anjana Prakash, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Anjana Prakash, J.—The Appellant No. 1 has been convicted under Sections 307, 324 and 148 I.P.C. and sentenced to rigorous imprisonment for 7 years, 1 year respectively and no separate sentence u/s 148 I.P.C. whereas the Appellant Nos. 2 to 5 have been convicted under Sections 323 and 147 I.P.C. but released on Probation of Offenders Act on surety of Rs. 2000/- for keeping good behaviour for a period of one year, by the 4th Additional Sessions Judge, Chapra in Sessions Trial No. 289 of 1989 by a judgment dated 24.5.1994.

2. The case of the prosecution is that on 22.7.1987 when the informant had gone to attend the call of nature he found the sheep of the Appellant No. 3 grazing crops at which he protested. He was then assaulted by the accused persons with Farsa and lathi on the head.

3. The prosecution in all examined 7 witnesses out of whom P.W. 1 is the informant whereas P.W. 1, 2, 3 are witnesses of the occurrence and P.W. 4 is the son of the informant whereas P.W. 6 is the doctor who examined the injured. The Investigating Officer was examined as P.W. 7.

4. On going through the evidence of P.W. 6 the doctor, I find that he had found a simple injury on the person of the injured. The manner in which the occurrence took place and the nature of injuries does not suggest that the intention of the

Appellant No. 1 was to cause death of the informant. However the witnesses have given a trustworthy narration of the occurrence.

5. In view of such, the conviction of the Appellant No. 1 is converted to one u/s 323 I.P.C and even he is released on Probation of Offenders Act on executing bond of Rs. 2000/- with two sureties of the like amount to keep peace and good behaviour for a period of one year from the execution of the bond whereas the appeal of the rest of the Appellants is dismissed without modification. In the result, the appeal is dismissed with the modifications as noted above.