

(2011) 12 JH CK 0105

In the Jharkhand High Court

Case No : Criminal Appeal (DB) No. 60 of 1991

Ramdas Kisku and Ravan Hembrom

APPELLANT

Vs

The State of Bihar (now Jharkhand)

RESPONDENT

Date of Decision : 16-12-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 302, 307, 34

Citation : (2011) 12 JH CK 0105

Hon'ble Judges : R.K. Merathla, J;Dhrub Narayan Upadhyay, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. This appeal arises out of the judgment and order of conviction and sentence dated 23.01.1991 and 25.01.1991 respectively, passed by the learned Additional Sessions Judge, Pakur, Sabihganj in Sessions Trial No. 286 of 1986/12 of 1990, arising out of Taljhari P.S. Case No.02 of 1985 corresponding to G.R. No.27 of 1985 convicting the appellants u/s 302/34 of the Indian Penal Code and sentencing them to undergo rigorous imprisonment for life.

2. The prosecution case in short is that on 21.01.1985 the informant PW-2 lodged a fardbeyan to the effect that when he was going along with PW-1, PW-3 and the deceased, the appellants surrounded them and started beating them by lathi causing several injuries. Thereafter, the villagers tied them with rope and produced before the Pradhan of the village where after some time (deceased) Surja Paharia died.

3. The prosecution examined altogether four witnesses. PW-1 is the son of the informant, PW-2 is informant, PW-3 is wife of the informant and PW-4 is a formal witness.

4. It is surprising that neither any injury report of the informant nor the post mortem report of the deceased have been exhibited in this case. Actually they are not even available in the lower Court's record. The I.O. of the case has also

not been examined. The appellants have been convicted by the trial Court on the ground that death is admitted and therefore, it was not necessary to bring on record the post mortem report or the injury report. Though PW-1 and PW-2 have supported the prosecution case but PW-2 also said that the villagers had doubt that the deceased and the informant were thieves and therefore, they were assaulted and produced before the Pradhan of the village.

5. No charge has been framed in this case u/s 307 I.P.C. though the informant is also said to have sustained injuries. The prosecution has not taken any pains to prove its case beyond all reasonable doubts.

6. In the circumstances, there is no option then to acquit the appellants giving them benefit of doubt.

7. In the result, this appeal is allowed. The impugned judgment and order of conviction and sentence dated 23.01.1991 and 25.01.1991 respectively, passed by the learned Additional Sessions Judge, Pakur, Sabihganj in Sessions Trial No. 286 of 1986/12 of 1990, arising out of Taljhari P.S. Case No.02 of 1985 corresponding to G.R. No.27 of 1985 is set aside. The appellants who are on bail are discharged from the liabilities of their respective bail bonds.