

(2009) 10 PAT CK 0028

In the Patna High Court

Case No : Criminal Revision No. 323 of 2001

Ramdeo Mahton and Others

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 12-10-2009

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313
Penal Code, 1860 (IPC) — Section 147, 148, 323, 324

Citation : (2009) 10 PAT CK 0028

Hon'ble Judges : Mandhata Singh, J

Bench : Single Bench

Advocate : Bharat Lal, for the Appellant; Nityanand Tiwary for the State, for the Respondent

Final Decision : Dismissed

Judgement

Mandhata Singh, J.—This revision application has been filed against the judgment dated 27.3.2001 passed by the Sessions Judge, Munger in Cr. Appeal No. 7/ 189 of 2000, by which he had dismissed the appeal and confirmed the judgment and order dated 4.12.2000 passed by the 2nd Assistant Sessions Judge, Jamui in Sessions Case No. 193/1987. Prosecution case in brief is that informant Narayan Mahto along with his cousins Damodar Mahton and Kameshwar Mahton had gone to his Phuphera brother at village-Amrath to participate in a feast and stayed there in night and next morning when they were coming home, all the accused persons variously armed with lethal weapons appeared and intercepted them. Bisheshwar Mahton told the informant that he had murdered his brother and asserted that they would in revenge kill him and soon after abuse inflicted a spear blow on him which sustained injury on his left hand dorsum. Other accused persons assaulted Damodar and Kameshwar by means of Lathi, as a result of which they sustained injuries. They further snatched away woolen Chadar.

2. After examining the defence witnesses and recording statement u/s 313

Cr.P.C. all the accused-petitioners convicted, specifically petitioners no. 1, 2, 3 and 4 for the offences under Sections 323 and 147 of the Penal Code and sentenced to undergo for three months and one month simple imprisonment respectively each while petitioner no. 5 has been convicted and sentenced under Sections 324 and 148 of the Penal Code for six months and two months respectively.

3. Learned counsel appearing for the petitioners submits that there are several infirmities but he prefers to press the period of sentence. He further submits that if the sentences are taken to run simultaneously then for each offence the period undergone can be taken sufficient as offence if any committed in the year 1987, land dispute was there. Grudge to the informant's party was that his brother's widow had transferred land of her share after death of his brother in favour of her son-in-law, which was being opposed on behalf of the informant and his family members, for which petitioners faced trial and came to this Court in revision, which has been heard today only.

4. Circumstances shown by the learned counsel appears me also to justify the submission about observing the period undergone by accused-petitioners sufficient while they remained in custody in the case since 18.6.2001 to 5.7.2001 taking that simultaneous for all the offences.

5. Accordingly, sentence is modified to the period undergone and with such modification conviction and sentence is affirmed. In the result, this revision application is dismissed with the above modification in sentence.