
(2011) 07 PAT CK 0155

In the Patna High Court

Case No : Criminal Appeal (SJ) No. 252 of 1997

Shambhu Sahni

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 11-07-2011

Acts Referred:

Arms Act, 1959 — Section 27A
Penal Code, 1860 (IPC) — Section 324

Citation : (2011) 07 PAT CK 0155

Hon'ble Judges : Anjana Prakash, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Anjana Prakash, J.—The Appellant has been convicted u/s 324 IPC and 27A Arms Act and sentenced to RI for one year and four years respectively by the 3rd Additional Sessions Judge, East Champaran, Motihari in S. Tr. No. 165 of 1996 by a judgment dated 28.08.1997.

2. The case of the prosecution according to Ram Swaroop Sahni, P.W. 5 is that on 14.12.1995 the accused persons started to cut his bamboo shoots at which an altercation took place between the parties. The Appellant Shambhu Sahni is said to have fired at the informant which hit his grandson Bhikhari Sahni.

3. During trial the prosecution in all examined eleven witnesses out of whom P.W. 5 is the informant himself. P.W. 1, P.W. 2, P.W. 3, P.W. 4 and P.W. 5 have been examined as eye witnesses. P.W. 6 and P.W. 10 are formal witnesses whereas P.W. 9 is the Investigating Officer and P.W. 10 the Doctor. During trial the informant P.W. 5 Ram Swaroop Sahni supported the fact that at 10.30 A.M. in the morning the accused persons variously armed entered his bamboo clump and started to cut his bamboo shoots at which they protested. The accused persons then left the place of occurrence but later came and fired on account of which the grandson of the informant was injured. P.W. 8 also stated that the accused persons had attempted to shoot at the informant when they were stopped from

cutting the bamboo shoots which accidentally hit Ram Swaroop Sahni's grandson. P.W. 1, Ramashray Sahni also supported the prosecution case in its entirety. The defence of the Appellants was that in fact the land belonged to the accused persons and the present occurrence had taken place in fact on account of the said land dispute in which they had been falsely implicated.

4. However it is difficult to accept this proposition since undoubtedly all the eye witnesses supported the fact that the Appellant had shot at the informant which had accidentally hurt the grandson of the informant. The Doctor also found corroborative injuries on his person. In view of such, I am not inclined to interfere with the conviction of the Appellant. However, in the interest of justice the period already undergone by him shall be sufficient punishment.

5. In the result, the appeal is dismissed with the aforesaid modifications in sentence.