
(2011) 05 PAT CK 0046

In the Patna High Court

Case No : Criminal Appeal No. 37 of 1996 (S.J.)

Shiv Charan Ravidas and Others

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 19-05-2011

Acts Referred:

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

Citation : (2011) 05 PAT CK 0046

Hon'ble Judges : Anjana Prakash, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Anjana Prakash, J.—The Appellant Nos. 1 and 2 have been convicted u/s 307 I.P.C. and sentenced to R.I. for five years and Appellant Nos. 3, 4, 5, 6 and 7 have been convicted u/s 323 I.P.C. and sentenced to S.I. for six months by the Additional Sessions Judge-II, Nawadah in Sessions Trial No. 180 of 1992/ 24 of 1993 by a judgment dated 9.2.1996.

2. The case of the prosecution that on 13.4.1992 when the informant requested the Appellants to remove bundles of crops which were touching his wall, an altercation arose between them and in course of which the Appellant Nos. 1 and 2 are said to have assaulted the informant with lathies on his shoulder, whereas rest assaulted him on non-vital parts.

3. During trial the prosecution in all examined eleven witnesses. Out of whom, P.W.1 and P.W.2 have been declared hostile. P.W.3, who is the sister of the informant, P.W.4 and P.W.5, who are the father and brother of the informant, have supported the informant, who is P.W.7. P.W.6 and P.W.11 are formal witnesses, whereas P.W.9 is the Investigating Officer and P.W.8 is the doctor, who examined the injuries on the person of the informant and proved the injury report as Exhibit 3.

4. The defence of the Appellants was that they have been implicated on account

of previous land dispute and no such occurrence had taken place.

5. On going through the evidence of the material witnesses as well as the Investigating Officer, I find that the occurrence was recorded at the earliest instance and the doctor has supported the injuries found on the person of the informant and his father further corroborating the prosecution case.

6. However, in the facts of the case, it is difficult for this Court to sustain the conviction of the Appellant Nos. 1 and 2 u/s 307 I.P.C. and therefore their conviction is also converted to one u/s 323 I.P.C.

7. In the result, the appeal is dismissed but modification in the conviction of Appellant Nos. 1 and 2 and the sentence is modified to the period already undergone by all the Appellants during trial.