
(2019) 12 JH CK 0189

In the Jharkhand High Court

Case No : Criminal Appeal (SJ) No. 288 Of 2006

Sita Ram Mandal

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 13-12-2019

Acts Referred:

Indian Penal Code, 1860 — Section 147, 148, 307, 323, 324, 325, 448 Probation Of Offenders Act, 1958 — Section 3

Citation : (2019) 12 JH CK 0189

Hon'ble Judges : Rajesh Kumar, J

Bench : Single Bench

Advocate : S.P.Roy, Laxmi Murmu

Final Decision : Disposed Of

Judgement

Heard Mr. S.P.Roy, learned counsel for the appellants and Ms. Laxmi Murmu, learned A.P.P. appearing for the State.

This appeal is directed against the judgment of conviction and order of sentence dated 30.01.2006 passed by Sri Rama Shankar Shukla, 4th Additional

Sessions Judge, (F.T.C.), Dumka in Sessions Case No. 274/2003 and 371/2003 whereby and whereunder the appellant No.1 has been sentenced to

undergo R.I. for one year and to pay a fine of Rs.200/- for the offence u/s 325 of the IPC and in default of payment of fine, further suffer R.I. for one

month and appellant No.2 has been sentenced to undergo R.I. for one year for the offence u/s 324 of the Indian Penal Code.

On the fardbeyan of the informant, namely, Bishu Mandal, Jama P.S. Case No.96/02 has been registered on 27.10.2002. The prosecution story as

disclosed in the F.I.R. is that Jiyadhar Mandal (brother of the informant) was going to attend call of nature, then Radhu Mandal and Sadhu Mandal

(full brother of the informant) had assaulted Jiyadhar Mandal. Jiyadhar Mandal rushed towards his house and thereafter the accused persons had

come to his house armed with lathi and farsa and assaulted the informant and his family members. Immediate reason of the dispute is that the bullock

of accused-Sadhu Mandal had destroyed the paddy crop of the informant. There is also a land dispute between the parties as they are full brothers.

After completion of investigation, charge-sheet has been submitted against the appellants under Sections 147, 148, 341, 323, 324 and 307 of the IPC.

Thereafter, cognizance has been taken. Case has been committed to the court of sessions and ultimately, charge has been framed under Sections 147,

341 and 448 of the IPC to which appellants pleaded not guilty and their defence has total denial. It is counter case as there was fight between the

parties for which accused has lodged Jama P.S. Case No.95/2002 and the present case Jama P.S. Case No.96/2002 is the counter blast.

To substantiate the prosecution story, altogether eight witnesses have been examined.

P.W. -1 Jiyadhar Mandal, P.W.-2 Manoj Kumar Mandal, P.W.-3 Ramjeevan Mandal, P.W.-5 Bishu Mandal (informant), P.W.-6 Sulochana Devi

(wife of the informant) and P.W.-8 Jitani Devi are the family members and have supported the F.I.R.

P.W.-4 Prabhu Mandal is a hearsay witness.

P.W.-7, the doctor has proved the injury of Manoj Kumar Mandal (P.W.2), Bishu Mandal (P.W.-5), Ramjeevan Mandal (P.W.-3) and Jiyadhar Mandal (P.W.-1).

From perusal of the testimonies of the witnesses alongwith testimony of the doctor (P.W.-7), it appears that there was fight between the parties and

four persons from the side of informant had sustained injury.

Learned court below had convicted Sita Ram Mandal under Section 325 of the IPC, Nakul Mandal @ Guli Mandal under Section 324 of the IPC and

other accused under Section 323 of the IPC. The other accused has been given benefits of Section 3 of the Probation of the Offenders Act. Sita Ram

Mandal has been sentenced for one year R.I. for the offence under Section 325 of the IPC with a fine of Rs.200/-, Nakul Mandal @ Guli Mandal has

been convicted under Section 324 of the IPC and sentenced for 1 year R.I.

The prosecution has able to prove the charge of Section 325 of the IPC against

Sita Ram Mandal and ingredients of Section 324 of the IPC against Nakul Mandal @ Guli Mandal.

Accordingly, their convictions are upheld under the above sections.

The dispute is of the year 2002. The accused have been convicted in the year 2006 and the appeal is being heard in the year 2019. Considering the entire materials available on record, this Court feels that the sentence should be converted to fine.

Accordingly, the sentence of one year R.I. and a fine of Rs.200/- of Sita Ram Mandal is, hereby, converted into a fine of Rs.5000/- and the conviction of sentence of one year R.I. under Section 324 of the IPC against Nakul Mandal @ Guli Mandal is, hereby, converted into fine of Rs.4000/-.

The court below is directed to recover the fine amount and to pay the same to the informant or his family members within three months.

The judgment of conviction and order of sentence dated 30.01.2006 passed by Sri Rama Shankar Shukla, 4th Additional Sessions Judge, (F.T.C.),

Dumka in Sessions Case No. 274/2003 and 371/2003 is modified to the extent indicated hereinabove. Accordingly, the appeal stands disposed of with above modification.

Since the appellants are already on bail, they are discharged from the liability of their bail bonds.