
(2002) 08 PAT CK 0085

In the Patna High Court

Case No : Criminal Revision No. 665 of 2001

Suraj Sahni and Others

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 28-08-2002

Acts Referred:

Penal Code, 1860 (IPC) — Section 147, 323, 379, 427

Citation : (2002) 3 BLJR 1918

Hon'ble Judges : S.N. Pathak, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

S.N. Pathak, J.—This revision is directed against the judgment dated 3-5-2001, passed by the 3rd Additional Sessions Judge, Begusarai, in Cr. Appeal No. 40/93 confirming the judgment of the trial Court dated 9.2.1993, passed by the Judicial Magistrate, 2nd Class in Complaint Case No. 736 (C) of 1990 (Trail No. 246 of 1993). The revisionists were convicted for the offence under Sections 147 and 323 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for three months and six months respectively. The appellate Court set aside the order of sentence maintaining the order of conviction and directed the revisionists to be released on a bond of Rs. 2000/- for maintaining peace and to be good behaviour for one year.

2. Counsel for the revisionists submitted that the complainant in his complaint petition alleged that Plot No. 798 was the P.O. land, whereas in his evidence in Court examined as P.W. 3 he alleged as Plot No. 762. Moreover, the trial Court and the appellate Court both acquitted the revisionists for the offence under Sections 379 and 427, IPC because the complainant failed to substantiate that he was in possession over the P.O. field. However, the revisionists were convicted under Sections 147, 323, IPC. In this connection, it was submitted that there are certain contradictions in the evidence of P.W. 3. Moreover, the complainant himself has said that he was subjected to assault and he became semi

unconscious as he received 15-20 fists and slaps, but neither any medical evidence was produced nor the complainant could demonstrate any sign of injury on his body. So the occurrence of assault was to be disbelieved and the Court below wrongly convicted them in this occurrence.

3. So far the contradictions here and there in the evidence of P.W.s. including the complainant, no statement of any witness can be literally interpreted to come to a finding that on account of such contradiction a particular offence is not established, so far the discrepancy regarding to P.O. filed is concerned, it may be a clerical error either by slip of tongue or by slip of pen by the Court while recording the deposition. Moreover, it is apparent from the complainant's evidence that both the accused and the complainant were laying claim over the P.O. filed whatever it may be. It has come in the evidence of one of the witnesses that after the occurrence, the P.O. filed remained fallow and unclutivated. This circumstance also indicates that both the parties have dispute over the land and on account of this dispute, this land remained unclutivated. It has also come in the evidence of the complainant that there was earlier a criminal case against the same set of accused persons filed by his uncle. This will also give circumstances that the complainants family was pursuing his claim over the P.O. filed, It is further apparent that the complainant was claiming the disputed filed. So in the face of the protest by the accused, they were, from to drive him away or to force him to go out of the field, but they were certainly not justified in assaulting him. There is no evidence nor there is any suggestion that the complainant came to the P.O. field associated by other persons so that he could not be driven out from the P.O. field without any assault so the occurrence of assault cannot be disbelieved. Moreover, on the basis of some contradictions here and there in the evidence or its literal interpretation this Court cannot interfere in Revision. In Revision the Court will examine the findings of the Court below-whether they suffered from any illegal approach adopted by the Court below in analysing the evidence or whether the Court committed any error of record. There is not much scope for scrutinising the evidence in depth in a revision. I am of the opinion that the order of conviction recorded by the two Courts below for the offence under Sections 147 and 323, IPC do not call for any interference by this Court. The revisionists were acquitted for the offence under Sections 379, IPC. They were further directed to furnish bond by the appellate Court. In the result, I am of the opinion that this is not a good case for interfering with the judgment of the appellate Court. In the result this revision is dismissed.