
(2017) 04 JH CK 0092
In the Jharkhand High Court
Case No : 243 of 2002

The Employees Provident Fund Organization,
Vs

APPELLANT

Dinesh Kumar Pandey

RESPONDENT

Date of Decision : 10-04-2017

Acts Referred:

Indian Penal Code, 1860, Section 324,
Section 323 - Voluntarily causing hurt by dangerous
weapons or means - Punishment for voluntarily causing hurt

Citation : (2017) 04 JH CK 0092

Hon'ble Judges : Rongon Mukhopadhyay

Bench : SINGLE BENCH

Advocate : Ram Prakash Singh

Judgement

1. By Court: No one appears on behalf of the petitioners. However, Mr. Ram Prakash Singh, learned A.P.P., is present. Since this revision application is pending since the year 2002, the same is being disposed of based on the materials available on records.

2. This application is directed against the judgment dated 19.04.2002 passed in Criminal Appeal No. 222 of 1989 by the learned 5th Additional Sessions Judge, Hazaribagh whereby and whereunder the judgment and order of conviction and sentence passed by the learned Judicial Magistrate, 2nd Class, Hazaribag in G. R. Case No. 193 of 1987 convicting the petitioner no. 1 for the offence punishable under Section 323 of the Indian Penal Code and the petitioner no. 2 for the offence punishable under Section 324 of the Indian Penal Code and sentencing them to undergo rigorous imprisonment for six months and one year has been affirmed.

3. The prosecution story as would appear from the First Information Report is that on 04.02.1987 the informant was ploughing his field, four cattle of the petitioner no. 1 had trespassed into the land of the informant and began to graze his crops. It is alleged that when the informant managed to take out the cattle

from his land which went to graze in the land of the accused persons when all of a sudden the accused persons variously armed started assaulting the informant and his wife due to which injuries were received by them.

4. On the basis of aforesaid information G. R. Case No. 193 of 1987 was instituted. After investigation culminated in submission of chargesheet cognizance was taken and the case was made over to the court of learned Judicial Magistrate, Hazaribag for trial wherein charges were framed under Sections 323 and 324 read with Section 34 of the Indian Penal Code against all the accused persons and the trial proceeded. In course of trial seven witnesses were examined on behalf of the prosecution. P.W. - 1 and P.W. - 2 are formal witnesses. P.W. - 3 Babulal Sonar, is the informant of the case who had stated about the entire incident. This witness has stated that when he removed the cattle he was assaulted by the accused persons with Lathi. This witness has further stated that his wife (P.W. 4), Gulabi Devi, was also assaulted by the accused persons with Tangi. P.W. - 4 Gulabi Devi, is the wife of the informant and the injured eye-witness. This witness has also stated that her husband was assaulted by the petitioners whereas she was assaulted by one Mannu Sonar. P.W. - 5, Arun Sonar, is the son of P.Ws. 3 and 4 who has also supported the occurrence. P.W. - 6 is the Doctor who had examined P.Ws. 3 and 4 and had found one injury on the person of the informant caused by hard and blunt substance whereas in the left forearm of P.W. - 4 a sharp cutting injury was found. P.W. - 7, A.H.Khan, is the Investigating Officer of the case who upon investigation had submitted charge-sheet against the petitioners. The injury report of P.Ws. 3 and 4 have been brought on record which has been marked as Exhibit - 2 and 2/1. A stand has been taken by the petitioners that they have been implicated on account of previous enmity and that no independent witnesses were examined in support of the prosecution case.

5. It appears that P.Ws. 3 and 4 who are the injured eye-witnesses are very consistent with respect to the manner of assault by the petitioners upon the informant P.W. - 3. The allegation made by P.Ws. 3 and 4 in the First Information Report have sufficiently been substantiated by him as well as by his wife P.W. - 4. The medical evidence also corroborates the injuries suffered by P.Ws. 3 and 4. Investigating Officer has also proved the place of occurrence. Mere existence of any previous enmity would not render the evidence of P.Ws. 3 and 4 doubtful although no independent witnesses have been examined in the present case but the consistent and corroborative evidence of P.Ws. 3 and 4 vis-a-vis the evidence of P.W. - 6 sufficiently goes to prove the manner of assault and the involvement of the petitioners in committing the assault. In such circumstance, therefore, the learned trial court has rightly convicted the petitioners for the offences punishable under Sections 323 and 324 of the Indian Penal Code and sentenced them accordingly. The learned appellate court has also appreciated the materials available on records before affirming the judgment and order of conviction and sentence passed by the learned trial court.

6. There being no reasons to conclude otherwise the judgment and conviction passed by the learned trial court and affirmed by the learned appellate court is, hereby, sustained.

7. However, with respect to the sentence which has been awarded to the petitioners is concerned, it appears that the petitioners are facing the rigors of the prosecution case since the year 1987. The petitioners and the informant parties also appear to be Gotias. Considering the long pendency of the case and the fact that the incident had taken place on account of the previous enmity, the period of sentence imposed upon the petitioners is reduced to the period already undergone.

8. This application stands dismissed with the aforesaid modification in sentence.