
(2022) 02 JH CK 0030

In the Jharkhand High Court

Case No : Criminal Revision No.76 Of 2021, IA No. 854 Of 2022

Tikait Rai And Others

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 22-02-2022

Acts Referred:

Indian Penal Code, 1860 — Section 323, 341

Citation : (2022) 02 JH CK 0030

Hon'ble Judges : Rajesh Kumar, J

Bench : Single Bench

Advocate : Lalit Yadav, Md. Hatim

Final Decision : Disposed Of

Judgement

Rajesh Kumar, J

1. The present revision application has been filed against the judgment dated 20.01.2020, passed by the court of learned Additional Sessions Judge – V, Deoghar in Criminal Appeal No.89 of 2017, affirming the judgment of conviction and order of sentence dated 14.12.2017, passed by the court of learned Judicial Magistrate, 1st Class, Madhupur in G.R. Case No.409 of 2010, arising out of Palajori P.S. Case No.93 of 2010, whereby the petitioners have been convicted for the offence under Section 323 and 341 of the I.P.C and sentenced to undergo simple imprisonment for one year for the offence under Section 323 of the I.P.C and S.I for one month for the offence under Section 341 of the IPC with fine of Rs.500/-each and in default thereof, to further undergo S.I for one month.

2. It has been alleged that there was quarrel between the parties over a piece of land. In order to substantiate the prosecution story, altogether five witnesses have been examined and after evaluating the same, the revisionists have been convicted for the offence under Section 323 and 341 of the I.P.C and sentenced to undergo simple imprisonment for one year for the offence under Section 323 of the I.P.C and S.I for one month for the offence under Section 341 of the IPC

with fine of Rs.5,00/- each and in default thereof, to further undergo S.I for one month. The appellate court has upheld the order of conviction as well as punishment.

3. Learned counsel for the revisionists has confined the prayer to the sentencing part and it has been submitted that this is first incident and as such they should have been given the benefit of Probation of Offenders Act. Further, referring to the nature of dispute and the nature of injuries and the fact that the incident is of dated 03.09.2010, it has been submitted that the revisionists have suffered a lot. The revisionist Nos.1, 3 and 4 are in custody since 20.01.2022 and petitioner Nos.2 and 5 are in custody since 24.01.2022. On the above facts, prayer has been made for modification of the sentencing part.

4. On the other hand, learned A.P.P has supported the judgment of conviction and order of sentence.

5. Having heard learned counsel for the parties and on perusal of the materials available on record, it appears that there was fight between the parties over a piece of land and the parties are neighbours. The revisionists have already suffered for more than ten years long litigation period. They have remained in custody for about a month.

6. Considering the fact that there is no previous conviction of the revisionists and the nature of injury which is simple in nature, and in the interest of justice, the period of sentence, as imposed by the court below, is reduced to the period already undergone by the revisionists.

Accordingly, the order dated 20.01.2020, passed by the court of learned Additional Sessions Judge – V, Deoghar in Criminal Appeal No.89 of 2017, is modified to the extent that it is reduced to the period already undergone by the petitioners. However, the fine amount, as imposed by the court below, is enhanced from Rs.500/- each to Rs.1,000/-each, which will be deposited in the court below, failing which they shall suffer S.I for two months.

7. With the above modification of the sentence, the present revision application and I.A. No.854 of 2022 stand disposed of.