

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.263 of 2003

Arising Out of PS.Case No. -null Year- null Thana -null District- VAISHALI(HAJIPUR)

1. Nand Kishore Singh son of Dhaneshwar Singh
2. Machhu Singh son of Dhaneshwar Singh
3. Ram Chandra Singh son of RamBalak Singh.
4. Jai Ram Singh son of Ram Chandra Singh.
5. Rajeshwar Singh @Khesri Singh s/o Late Pyare Singh
6. Rabindra Singh son of late Pyare Singh all of village manua P.S. Case Hazipur Sadar District Vaishali

.... Petitioner/s

Versus

State of Bihar

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Arun Kumar

For the Respondent/s : Mr.

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 28-01-2015

The petitioners are aggrieved with the conviction on various grounds passed by the Judicial Magistrate, 1st Class, Hajipur in G.R. Case No. 31 of 1989, Tr. No. 67 of 1997 which was further affirmed by the 5th Additional Sessions Judge, Vaishali in Cr. Appeal No. 14 of 1997 by judgment dated 20.02.2003.

The case of the prosecution is that on 05.01.1989 while he was standing in his field, the accused persons came there variously armed and started to take possession of the same land and on resistance, assaulted them.

The case of the defence is that in fact it was Ram Chandra Singh one of the accused who is full brother of the informant who had got share of the said lands and there was land dispute between them. During trial the prosecution examined six witnesses out of whom P.W. 1 Bal Kumar Singh is a formal witness P.W. 2 Shivjee Singh and P.W. 3 Suresh Pd. Singh are the sons of the informant

and P.W. 4 Ram Ashray Pd. Singh is the informant himself. P.W. 5 Nagendra Rai is the investigating officer and P.W. 6 Subhash Chandra Sharma is the doctor who examined the Ram Ashray Singh.

It has been submitted on behalf of the petitioners that admittedly in the background of rival and bonafide claims upon the land, no offence under Sections 379 and 149 of the Indian Penal Code is made out.

In the facts of the case I am inclined to agree with the submissions raised. Hence the revision application is allowed. The order passed by the Judicial Magistrate, 1st Class, Hajipur in G.R. Case No. 31 of 1989, Tr. No. 67 of 1997 and the order passed by the 5th Additional Sessions Judge, Vaishali in Cr. Appeal No. 14 of 1997 dated 20.02.2003 are set aside.

(Anjana Prakash, J)

Patna High Court Patna/
Dated, 28th Jan 2015
NAFR/Prakash/-

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