

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.101 of 2002

- =====
1. Mathura Mahto son of Dakas Mahto,
 2. Kishundeo Mahto @ Vishnu Mahto,
 3. Ramswaroop Mahto,
 4. Sakaldeo Mahto all sons of Mathu Mahto, R/O Village-Jethsari, P.S. Govindpur, Distt-Nawadah.

.... Appellant/s

Versus

State of Bihar

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Patnajari Rishi, Amicus Curiae

For the Respondent/s : Mr. Sujit Kumar Singh, APP

=====

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL JUDGMENT

Date: 21-08-2015

Appellants, Mathura Mahto, Kishundeo Mahto @ Vishnu Mahto, Ramswaroop Mahto and Sakaldeo Mahto have been found guilty for an offence punishable under Sections 325/149 IPC, 323/149 IPC, 448 IPC, 147 IPC, 148 IPC and each one has been directed to undergo RI for three months, two months and one month respectively having no separate sentence under Sections 147 IPC, 148 IPC vide judgment of conviction and sentence dated 04.02.2002 passed by Presiding Officer, Fast Track Additional Sessions Court, Nawada in Sessions Trial No. 47/1996/29/2002.

2. On 28.01.1995, PW-3 Annu Devi had recorded her Fard-e-beyan while being admitted at Sadar Hospital disclosing therein that on 28.01.1995 at about 8:30 p.m. there was a knock at her door whereupon she inquired. The person disclosed his identity as Mathura Mahto and he, further requested to open the door. As soon as, she opened the door, Mathura Mahto, Kishundeo Mahto @ Vishnu

Mahto, Ramswaroop Mahto, Sakaldeo Mahto wife of Sakaldeo Mahto having been variously armed came inside, began to abuse and further stamping her as a witch, they began to assault her with Lathi and back portion of Khanti. Her son, Vijay, daughter-in-law, Manju Devi came in her rescue who were also assaulted by them.

3. On the basis of aforesaid Fard-e-beyan, Govindpur PS Case No. 07/1995 was registered whereupon investigation commenced and concluded by way of submission of charge-sheet leading to trial which ultimately faced with the conclusion deterrent to appellants in a manner as indicated above. Consequent thereupon, has been challenged under present appeal.

4. Defence case as is evident from mode of cross-examination as well as from the statement recorded under Section 313 Cr.P.C is of complete denial as well as of false implication. In support of the same one DW has also been examined.

5. Learned Amicus Curiae has fairly submitted that at an initial stage appellants including Shobha Devi faced trial for an offence punishable under Sections 307 IPC as major Section including other minor Sections, however, by the judgment impugned, appellants have been found guilty and sentenced in a manner as indicated above but from the evidence available on the record, some sort of leniency is attracted over sentence in the background of the fact that apart from being neighbour as well as having been absence of any sort of grievances amongst them, the witnesses have stated that they are still

on visiting terms and are supportive to each other, in case of urgency and for that referred the evidences of PW-2 (Para-6), PW-3 (Para-6). Apart from the fact that occurrence is of the year 1995 and on account thereof, much ordeal has already been faced by the appellants during intervening period of 20 years.

6. Furthermore, the occurrence took place on a trivial issue without any premeditation. As well as the nature of injuries deaden the manner of occurrence.

7. Learned APP opposed the prayer but conceded to the nature of evidence having been adduced by the witnesses as referred above.

8. Consequent thereupon, maintaining the conviction as recorded by the learned lower court, the sentence is modified as already undergone. The appeal is dismissed with the aforesaid modification.

9. The first and the last pages of the instant order be handed over to learned Amicus Curie for the needful.

(Aditya Kumar Trivedi, J)

Patna High Court
August 21st 2015
Perwez/AFR

U		R	
---	--	---	--