

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.194 of 2002

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RAMESH SINGH, SON OF RAJENDRA SINGH, RESIDENT OF MOHALLA-
MANIK SARKAR GHAT ROAD, GALI NO.3, P.S.-KOTWALI, DISTRICT-
BHAGALPUR.

.... APPELLANT/S

VERSUS

THE STATE OF BIHAR

.... RESPONDENT/S

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Appearance:

For the Appellant/s : Mr. Ramakant Sharma, Sr. Adv.
Mr. L.K. Sharma, Adv.
Mr. Prem Shankar Kumar, Adv.
For the State : Mr. Bipin Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

ORAL JUDGMENT

Date: 08-01-2015

Heard learned counsel for the appellant as well as
learned Additional Public Prosecutor.

2. Learned counsel for the appellant fairly submitted
that though this case suffers from so many improbabilities
which could have adversely affect upon the manner as well as
genesis of occurrence however, on account of lapses on the
part of defence while conducting trial, certain important aspect
could not be brought up on record though one of the appellant
Rajendra Singh (since deceased) had himself entered into
witness box as DW.2. Furthermore, it has been submitted that
PW-1, father of so-called injured Vijay Kumar Singh while
deposing had admitted that since before the occurrence
appellant Rajendra Singh (since deceased) had challenged him



under litigation even before Civil Court on account of having settlement of riverain in his favour by the C.O. and on account thereof, the version of the prosecution that appellant Rajendra Singh (since deceased) had come inside the house and then took away Vijay Kumar Singh, the injured outside his gate where Ramesh inflicted 'Dabia' blow on an order of Rajendra Singh (since deceased) appears to be improbable. Furthermore, the presence of injury over PW-4 by some other means as stated by DW-2 could not properly been flashed and tested during course of examination of prosecution witnesses. As such, fairly submitted that in stead of arguing the appeal on its merit, would confine his submission over sentence only and for that submitted that occurrence is of the year 1993, one of co-accused had already died and though remaining appellant Ramesh Singh has been found guilty for an offence punishable under Section 324 of the IPC and sentenced to undergo R.I. for one and half year may be made stingless and in place thereof, should be compensated as period undergone along with fine.

3. The learned Additional Public Prosecutor did not object.

4. Considering the rival submission as well as taking into account the merit of the case in consonance with the activity of the remaining appellant furthermore considering the fact that there happens to be absence of criminal antecedent as well as having expiry of approximately 21 years since the

date of occurrence as well as taking into account the age of the remaining appellant Ramesh Singh to be 52 years on the date of recording of statement under Section 313 Cr.P.C., it looks prudent to accede with the prayer made on behalf of appellant. Consequent thereupon, maintaining conviction under Section 324 IPC the period already undergone would be sufficient for the circumstances of the case as justified and proper sentence and is order so along with fine appertaining to Rs.10,000/-(Ten Thousand) in default thereof, to undergo R.I. for one year. The fine must be deposited within one month from the date of receipt / production of instant judgment till then the privilege of bail granted to the appellant is extended in terms of Section 437(A) Cr.P.C. In case fine is deposited, the half amount will be paid to Vijay Kumar Singh on proper identification. If fine amount is not deposited within the aforesaid stipulated period, the trial court will be at liberty to take appropriate steps under the law.

(Aditya Kumar Trivedi, J.)

Patna High Court
Dated, the 8th day of Jan, 2015
Prakash Narayan

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