

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (DB) No.329 of 1990

Arising Out of PS.Case No. -null Year- null Thana -null District- -

- =====
1. Ram Bilash Singh, son of Ramphal Singh, aged about 80 years
 2. Rama Shankar Singh, son of Ram Bilash Singh, aged about 28 years
 3. Sheojogi Singh, son of Sripthal Singh, aged about 60 years
 4. Janak Singh, son of Ramphal Singh, aged about 50 years
- All resident of Village-Mangolpur, Police Station-Baikunthpur, District-Gopalganj

.... Appellant/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Appellant/s : Mr. Anil Singh (Amicus Curiae)
For the Respondent/s : Mr. Dilip Kumar Sinha, APP

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 16-09-2017

All the four appellants have filed this appeal under Section 374(2) of the Cr. P.C calling in question the judgment dated 30th of July, 1990 passed by the 2nd Additional Sessions Judge, Gaya in Sessions Trial No. 336 of 1983 and 34 of 1987 directing them to convict for the offence under Section 302/34 of the Indian Penal Code.

While the matter was being heard by a coordinate Bench of this Court on 28.08.2012, it was found that appellant No. 1



Ram Bilash Singh was more than 80 years of age, appellant No. 3 Sheojogi Singh was 60 years of age and appellant No. 4 Janak Singh was 50 years of age in the year 1990 and therefore, a report was called for from the Superintendent of Police, Gopalganj. In pursuance to the same, the Superintendent of Police, Gopalganj has submitted a report and thereafter, on 24.04.2013 further report was called for from the Superintendent of Police, Gopalganj. Accordingly the reports have been received from the Superintendent of Police, Gaya dated 21.03.2013 and 08.03.2013 which goes to show appellant No.1 Ram Bilash Singh had expired in the year 1994, appellant Nos. 2 and 3 Rama Shankar Singh and Sheojogi Singh has also expired and as far as appellant Janak Singh is concerned, his whereabouts is not known and he was not available in the village. That being so, it is a case where three of the appellants namely appellant No. 1, Ram Bilash Singh, appellant No. 2, Rama Shankar Singh and appellant No. 3 Sheojogi Singh are no more alive and as far as appellant No. 4 is concerned, his whereabouts is also not known.

Considering the fact that appeal is of the year 1990, we went through the records and the facts of the case and we find that the incident took place on 12th of March, 1982 and it is the case of the prosecution that in village Mangolpur of District, Gopalganj, appellant No. 2 Rama Shankar Singh was ploughing his



field which is situated on the north side of the land belonging to the deceased Kapildeo Singh who had grown maize crop in his land. When the deceased Kapildeo Singh went there and questioned appellant No. 2 Rama Shankar Singh as to why he is ploughing his field, on this, appellant No. 1 Rama Bilash Singh ordered for assault of the deceased and accordingly appellant No. 2 Rama Shankar Singh is said to have assaulted the deceased on the back side of his head with a fists and bamboo due to which he fell down on the ground. As far as other accused are concerned, it is stated that they assaulted the deceased on his back and legs with fists and blow. The deceased was taken to the hospital who subsequently succumbed to the injuries on 25.03.1982. From the medical evidence that has come on record, it is clear that the deceased died because of the injury caused on back of his head and this injury was caused by appellant No. 2 Rama Shankar Singh who has died. As far as other appellants are concerned, there are general allegations that they all assaulted by fists and blow to the deceased. Two of the appellants are no more alive and as far as the only appellant Janak Singh is concerned, he is alleged to have assaulted deceased with fists and blow, that also on the non-vital part of the body. That apart, from the records, it is seen that Janak Singh as on date is more than 77 years of age and even it is not known as to whether he is alive or not.



Keeping in view the aforesaid, no useful purpose will be served in keeping the matter pending now after such a long period of time. Finding the appeal to have outlived its utility as three of the appellants are no more alive and as far as appellant No. 4 Janak Singh is concerned, his whereabouts is not known, in the facts and circumstances of the case, we dispose of this appeal with a direction that no action now requires to be taken against appellant No. 4 Janak Singh and as far as appellant Nos. 1, 2 and 3 are concerned, the appeal stands abated.

In view of the fact that a case under Section 302/34 is not made out against the only appellant alive Janak Singh, we dispose of the matter.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21/09/2017
Transmission Date	NA

