

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.39 of 2003

Arising Out of the judgment of conviction and order of sentence dated 24.12.2002 passed by learned Ad hoc Sessions Judge, Presiding Officer, Patna in Sessions Trial No. 559 of 1990 / 200 of 2001.

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1. Premdhar Rai, Son of Late Hari Rai
2. Raj Ishwar Rai
3. Bhikhari Rai, 2 and 3 are sons of Premdhar Rai.
All are residents of Daudpur Bagicha, P.S. Shahpur, (Danapur), District – Patna.
..... Appellant/s

Versus

The State of Bihar
..... Respondent/s

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Appearance :

For the Appellant/s : Mr.
Mr. Satish Narain Taterway
For the Respondent/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 09-11-2017

This Criminal appeal has been filed to challenge the judgment of conviction and order of sentence dated 24.12.2002 by which the appellants were sentenced to undergo 18 months of rigorous imprisonment and fine of Rs. 1000/- each for having committed offence under Sections 304A/34 of the Indian Penal Code and Section 429 of the Indian Penal Code for the death of a buffalo.

Appellant no. 1 who is the main accused in the matter was more than 70 years of age in the year 1990 when the incident is said to have taken place and he would not be alive now. Appellant Nos. 2 and 3 are his sons who were 35 and 30 years of age in the year 1990.



The case of the prosecution is that appellant no. 1 Premdhar Rai had illegally put wire from the electric pole to his house without due approval and in the 03:00 am in the morning of 05.07.1990, when aunt of the informant P.W. 6 Girja Rai was going to attend the call of nature was came in contact alive with electric wire lying in the field was electrocuted and died. In the said process, the buffalo of Girja Rai was also died and appellants were held responsible for the offence and they have been convicted.

It is seen from the evidence that came on the record that the house belong to Appellant No. 1 and he was held responsible for illegally taking wire from the electric pole to his house and so far Appellant Nos. 2 and 3 there being no specific allegation is made against them as there is only allegation of assisting their father in extracting the wire.

It is submitted that the wire was illegally taken from the pole to the house of Appellant No. 1 but no cogent evidence has been adduced as to which wire had fallen. No authority of the electricity department has been examined and, even if, the allegation is found to be correct it can be made out against only Appellant No. 1, who is the owner of the house, who is said to have illegally taken electric connection. There is no material against Appellant No. 2 and Appellant No. 3.



Taking note of all these circumstances, I do not find any good reason to uphold conviction of the appellants. No specific evidence is available against Appellant No. 2 and 3. The appellants are acquitted of the charges leveled against them and they are discharged from their bail bonds.

(Rajendra Menon, CJ)

KKSINHA/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.11.2017
Transmission Date	16.11.2017

