

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.572 of 2002

Arising Out of PS.Case No. -null Year- null Thana -null District- BHABHUA (KAIMUR)

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Awadh Lal Sah, son of Chamru Sah, resident of Village-Dewari, Police Station-
Adhaura, District-Kaimur at Bhabua

.... Appellant/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ranbir Singh (Amicus Curiae)

For the Respondent/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date: 14-10-2017

Challenging his conviction under Section 307 of the Indian Penal Code and sentencing him to undergo 7 years rigorous imprisonment and fine of Rs. 5000/- and further 3 years rigorous imprisonment under Section 27 of the Arms Act, this appeal has been filed by the appellant.

It is the case of the prosecution that on 24.11.1993 at about between 3:00 to 4:00 P.M, the water was being discharged from the house of the appellant's side when the informant protested due to this, scuffle took place between both the parties. It is alleged that this appellant Awadh Lal Sah took out a pistol from his house and tried to fire on the informant but it hit his son Bishwanath Sah on his hand. Finding appellant Awadh Lal Sah to have used a gun for assaulting the son of the informant, the offence under Section 307



of the Indian Penal Code is found to be made out. Even though one Nand Lal Sah was also prosecuted but he has been acquitted as his presence in the place of incidence is not proved.

Having heard learned counsel for the parties and on a scrutiny of the evidence that has come on record particularly the statements of the informant, P.W. 2 Jagdish Sah and P.W. 4, Bishwanath Sah, the injured, it is clear that he has suffered a fire arm injury on his hand. P.W. 6 Dr Vinod Kumar Chaudhary is the Medical Officer who says that the injury was a simple injury. Learned Court has taken note of all these factors and found that even though the injury is a simple injury but as it was caused by using of a fire arm and it hit the hand, the ingredient necessary for conviction under Section 307 of the Indian Penal Code is made out and has convicted the appellant for the aforesaid offence. If on going through the records, it is seen that the appellant, when the incidence took place was more than 50 years of age in the year 1993, now he would be more than 73 years of age. He has already undergone some sentence of about one and half years during all these periods and now it would not be feasible in the interest of justice to send him for further imprisonment.

In the peculiar facts and circumstances of the case, it shows that both the parties were neighbors and having been



continuously fighting with each other. Cases after cases have been filed and it is a case where because of the sudden argument that took place, the incidence had occurred.

Accordingly, the appeal is allowed in part, the judgment of conviction and order of sentence dated 25.09.2002 passed by learned Additional Sessions Judge, F.T.C No. 4, Kaimur at Bhabua in Sessions Trial No. 485/150 of 1994/2002 is upheld, but in the interest of justice, the sentence is reduced to the period already undergone and fine of Rs. 5000/- is enhanced to Rs. 25000/- to be paid to the victim.

With the aforesaid modification, the appeal is partly allowed and disposed of.

(Rajendra Menon, CJ)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
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