

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.563 of 2002

Against the judgment of conviction dated 28th August, 2002 and order of sentence dated 29.08.2002 passed in Sessions Trial No.352 of 1987 (276/02) by learned Additional Sessions Judge, Fast Track Court No.3, Vaishali at Hajipur.

Shakunt Rai, son of late Dhannu Rai, resident of village-Dayalpur, Police Station-Rajapakar, District-Vaishali.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Aminesh Kumar Mishra, *Amicus curiae*
For the Respondent/s : Mr. Z. Hoda, A.P.P.

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date : 14-10-2017

Challenging his conviction and sentence ordered on 28.08.2002 and 29.08.2002 in Sessions Trial No.352 of 1987 by the Additional Sessions Judge, Fast Track Court No.3, Vaishali at Hajipur for offence under Sections 307 and 326 of the Indian Penal Code and sentencing him to undergo seven years rigorous imprisonment and five years rigorous imprisonment respectively, this appeal has been filed by the appellant.

This appeal is pending since 2002, more than 15 years have passed, appellant is on bail since then and whenever the case is listed for final hearing, appellant or his counsel is absent. Accordingly, Sri Aminesh Kumar Mishra was appointed *Amicus*



Curiae to assist us and represent the appellant, by providing to him legal aid through the High Court Legal Aid Committee.

It is the case of the prosecution that on 27.1.1987 at about 15.35 hours, A.S.I. of Town Police Station, Hajipur recorded a *ferdbeyan* in Sadar Hospital, Hajipur at the instance of one Piyaria Kuer, since deceased, and wife of late Manu Rai, wherein she has stated that the appellant Shakunt Rai along with Ujagar Rai, Dhannu Rai, Nemia Kumari and Bedamia Devi forcibly wanted to raise wall on her land to which she and her son one Harendra Rai, P.W.2., protested and told that this cannot be done. On this Dhannu Rai, Ujagar Rai and Shakunt Rai, who was armed with dagger with an intention to kill her son P.W.2 gave dagger blow on the back side of his head, stomach and back due to which he fell down and when she went to save her son, the accused also gave her a dagger blow on her head and Nemia Kumari and Bedamia Devi also assaulted her on the back with bamboo. She fell down and raise hulla. She was carried to the hospital, namely Sadar Hospital, Hajipur, where the *ferdbeyan* was lodged and she had put to medical examination.

The prosecution had examined various witnesses in support of the claim. From the statement of the informant examined as P.W.3 Piyaria Kuer and particularly that of her son, P.W.2



Harendra Rai and the medical evidence of P.W.5 Dr. Ram Govind Prasad, it is clear that Harendra Rai suffered lacerated wound on the right side of back on the scalp, incised wound on the left side of the chest, incised wound on the right side below the scapular angel, incised wound on the chest cavity and incised wound on the back side of his body. According to the doctor, injuries, particularly injury no.4 was grievous in nature.

The complainant Periya Kuer, P.W.3, had also suffered lacerated wound on her frontal bone and two minor injuries. According to doctor, injury no.1 on the frontal bone was grievous in nature.

As the injuries sustained by the deceased were grievous in nature, this Court does not find any error in the orders passed convicting the appellant. The learned trial Court from para 6 onwards has analyzed the statement of the witnesses meticulously and there is no reason to take a different view when the statements of the witnesses, particularly P.W.2, and 3, the injured persons, are corroborated from the statement of Dr. Ram Govind Prasad. It is a case where grievous injury has been caused by the appellant by use of a sharp edged weapon and considering the same, there is no reason to interfere into the matter.



The appeal stands dismissed. The bail bond of the appellant be cancelled and he be taken back to custody for undergoing the remaining part of his sentence.

(Rajendra Menon, CJ)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
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