

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.565 of 2002

Against the judgment of conviction and order of sentence dated 27.09.2002 passed in Sessions Trial No.34 of 2002 (120/1992) by learned 1st Additional Court of Sessions, Fast Track, Nawada.

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1. Basudeo Pasi S/o Bajo Pasi.
 2. Latan Pasi S/o Budho Pasi
 3. Kailu Pasi S/o Budho Pasi
 4. Ramchandra Pasi S/o Bajo Pasi
 5. Lal Keshwar Pasi S/o Bajo Pasi.
 6. Bachu Pasi S/o Kailu Pasi.
 7. Dwarika Pasi S/o Latan Pasi.

All resident of village- Khargubigha, P.S. Nawadah, District-Nawadah.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Arun Kumar Tripathy, Amicus curie

For the Respondent/s : Mr. Sujeet Kr. Singh, A.P.P

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date : 14-10-2017

This appeal has been filed by the appellants challenging their conviction for offences under Section 307/149 of the Indian Penal Code and sentencing them to undergo four years rigorous imprisonment. All the appellants except appellant Basudeo Pasi and Kailu Pasi have also been convicted under Sections 147 and 148 of the Indian Penal Code, but no separate sentence have been passed under Sections 147 and 148 of the Indian Penal Code.

The incident in question took place on 27.06.1991 around 3 P.M. when Lotha Chaudhary @ Pariyag Chaudhary was sitting outside his house in village Kharbu Bigha, P.S. Nawada, District



Nawada when the accused persons are said to have surrounded him and abused him and then accused Basudeo Paswan ordered, Ramchandra Pasi struck him with *Phusli* over his neck causing injury, accused Latan Pasi assaulted him with *Garasa* over his chest, accused Bachu Pasi with *Phasuli* over his belly, accused Dwarika Pasi with saif, accused Lalkeshar Passi with *Phasuli* and accused Kailu Pasi with a *lahti*.

All the accused were charged under Sections 307/149 and 148 of the Indian Penal Code. Accused Kailu Chaudhary was further charged under Section 323 of the Indian Penal Code for voluntarily causing hurt to Bhola Chaudhary and accused Ramchandra Chaudhary was charged under Section 324 of the Indian Penal Code for voluntarily causing hurt to Ramdeo Chaudhary and they have been convicted as indicated hereinabove.

Happening of the incident and the injuries as indicated above is proved and based on the statement of the witnesses that have come on record, this Court does not see any reason to interfere with the same. At the same time, the incident is said to have taken place more than 26 years back in the year 1991. The appellants have been in custody for various period ranging six months to one year and when the incident took place, appellant Basudeo Pasi was more than 55 years of age, Kailu Passi and Lathan Passi were



more than 60 and 65 years of age and the other appellants were also about 40 years of age. The incident took place because of some rivalry in the village and there is no previous history of criminal activity by the appellants.

Taking note of all the circumstances, even though this Court upheld the conviction, but in the facts and circumstances of the case, in exercise of power under Section 360(4) of the Code of Criminal Procedure it directs that the appellants be released on probation on their entering into a bond to keep the peace and be of good behaviour for a period of one year.

With the aforesaid modification in sentence, the appeal stands disposed of.

(Rajendra Menon, CJ)

Sunil/-

AFR/NAFR	NAFR
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