

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.601 of 2002

1. Daso Singh, son of late Somar Singh
 2. Ram Chandra Singh, son of late Somar Singh
 3. Rajendra Singh, son of Ram Chandra Singh
 4. Sidhi Singh, son of Ram Chandra Singh
 5. Vijay Singh, son of Shital Singh
 6. Balli Singh alias Bali Singh, son of Ram Chandra Singh
 7. Shital Singh, son of late Somar Singh
 8. Arun Singh, son of Shital Singh
 9. Musafir Singh, son of late Somar Singh
 10. Upendra Singh, son of Musafir Singh
 11. Krishna Deo Singh, son of Daso Singh
- All residents of Village Anti, P.S./District Nawadah

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. SIDHENDRA NARAYAN SINGH, Adv.
For the Respondent/s : Mr. S.A. Ahamad, APP

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 25-11-2017

Challenging their conviction ordered by the 1st Additional Sessions Judge, Nawada vide judgment dated 19th/21st of September, 2002 in Sessions Trial No.46/87-69/90 (arising out of Nawadah P.S. Case No.278/85, G.R. No.1064/85), convicting appellant No.1 Daso Singh to three years' R.I. for the offence under Section 326 of I.P.C. and one year's R.I. for the offence under Section 148 of I.P.C. and sentencing appellant Nos.2 to 5 to one year's R.I. under Section 148 I.P.C. and one year's R.I. under Section 324 I.P.C. and the remaining appellant Nos.6 to 14 for the



offence under Section 148 of I.P.C. and releasing them on probation, this appeal has been filed by the appellants.

However, during the pendency of the appeal, appellant No.1 has died and similarly appellant No.2 Ram Chandra Singh has also died. Accordingly, now this appeal is only with regard to appellant Nos.3 to 5 who were convicted with the aid of Section 148 I.P.C. to one year's R.I. and one year's R.I. under Section 324 I.P.C. and all remaining have been given the benefit of Section 360 Cr.P.C. and left on probation and their period of probation is already over and there is nothing to indicate that they have committed any offence or breach.

Having considered learned counsel for the parties, it is seen that the offence in question took place more than 32 years back on 8.9.1985 and the main allegation of causing injuries is on appellant No.1 Daso Singh who has died. As far as the remaining appellant Nos.3 to 5 are concerned, general and omnibus statement has been made against them. Except for the fact that their presence on the spot with Lathi is there, no specific overt act is attributed to them. They have been alleged to have assaulted the injured persons and the injuries sustained by the injured persons are mainly attributed to the appellant No.1 Daso Singh who is convicted under Section 326 I.P.C. and who has died. That apart,



as far as appellant No.5 Vijay Singh is concerned, from the story narrated by the prosecution, it is seen that his presence on the spot is indicated by indicating that he was present with a Saif. However, he is not shown to have assaulted any individual with the aforesaid instrument and no specific act is attributed to him.

That being so, his conviction for the offence in question is not made out from the material available on record for injuries caused on the body of the injured persons as are narrated from para 6 onwards of the judgment are attributable to injuries caused either by appellant No.1 or by injuries with Lathi and, therefore, the conviction of appellant No.5, who is said to have been present along with a Saif is unsustainable.

Accordingly, appellant No.5 Vijay Singh is acquitted of the charges levelled against him and discharged from the liability of bail bonds. As far as the other appellants are concerned, namely appellant Nos.3 and 4, namely Rajendra Singh and Sidhi Singh respectively, they are convicted for the offence which took place more than 32 years back. They are only convicted to one year's R.I. concurrently for the offence under Sections 148 and 324 of I.P.C. and left on probation and during the pendency of the matter, there is nothing to indicate that they have committed any further offence. They do not have any



criminal antecedent. They are all rustic villagers and it was the first crime committed by them. Appellant Nos.6 to 11 are also granted the benefit of Section 360 Cr.P.C. They shall furnish a bond for keeping peace and tranquility for a period of one year.

Appeal is allowed with regard to appellant No.5.

(Rajendra Menon, CJ)

K.C.Jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
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