

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Appeal (SJ) No.2750 of 2017**

Arising Out of PS. Case No.-46 Year-2011 Thana- BIRPUR District- Supaul

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1. Suresh Choupal, Son of Late Panna Lal Choupal
  2. Chandra Prakash @ Chandra Prakash Choupal @ Gunai Choupal, Son of Late Panna Lal Choupal.
  3. Sanjay @ Sanju Choupal @ Sanjay Kumar Choupal, Son of Late Panna Lal Choupal, All are resident of Village- Girdharmari, P.S.- Birpur, District- Supaul.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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**Appearance :**

|                      |   |                                                                                                                                            |
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| For the Appellant/s  | : | Mr. Sharda Nand Mishra<br>Advocate<br>Mr. Dhananjay Kumar Gupta<br>Advocate<br>Mr. H. C. Patel<br>Advocate<br>Mr. Rajiv Ranjan<br>Advocate |
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| For the Respondent/s | : | Mr. Abhay Kumar<br>Advocate                                                                                                                |

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**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR**  
**ORAL JUDGMENT**

**Date : 16-08-2018**

Heard learned counsel for the appellants and the State.

2. The appellants have been convicted for the offences under Sections 147, 148 and 307/149 of the I.P.C. vide judgement and order dated 24.08.2017 passed by the learned Sessions Judge, Supaul in connection with Sessions Trial No. 160 of 2011 / Sessions Trial No. 24 of 2012 and sentenced to undergo RI for six months, one year and seven years for the offences under Sections 147,



148 and 307/149 of the I.P.C. respectively, and have also been slapped with a fine of Rs. 3,000/- (three thousand) each for the offences under Sections 307/149 of the I.P.C. In default of payment, the appellants have been directed to suffer further rigorous imprisonment for a period of three months. All the sentences but have been directed to run concurrently.

3. The appellants are alleged to have caused injuries to Pitambar Sharma / P.W. 5 / the informant.

4. The appellants along with others have been made accused on the basis of the F.I.R. lodged by P.W. 5 vide Birpur P. S. Case No. 46 of 2011 dated 12.04.2011 instituted for the offences under Sections 147, 148, 149, 341, 323, 324, 326 and 504 of the I.P.C. It was alleged by him that on 12.04.2011 at about 9 o'clock in the day, because of an old dispute, appellant no. 1, namely, Suresh Chaupal gave a farsa blow on his head, whereas the other appellants assaulted him on other parts of his body.

5. The police after investigation submitted charge-sheet under Section 307 and other Sections of the I.P.C., whereupon cognizance was taken and the case was committed to the Court of Sessions for trial.

6. The learned trial court, after examining seven witnesses on behalf of the prosecution, has



acquitted the other accused persons but convicted and sentenced the appellants as aforesaid.

7. Paltu Sharma, Baleshwar Mehta, Dev Narayan Mehta and Hari Lal Mehta are the eye witnesses to the occurrence and they have been examined as P.W.s 1, 2, 3 and 4, respectively. They have supported the prosecution version and have stated that the appellant no. 1 assaulted P.W. 5 on his head, whereas the other two appellants assaulted him on different parts of his body.

8. Pitambar Sharma / P.W. 5, the informant as well as the injured, has also supported the prosecution version. He has stated that appellants / Suresh Choupal and Chandra Prakash Choupal came to his land for fixing pegs. When he protested, they threatened him of dire consequences. Thereafter, appellant no. 1 / Suresh Choupal is stated to have inflicted Farsa blow on his head and appellant / Chandra Prakash Choupal gave Dabia blow on his leg. When P.W. 5 raised alarm, his wife / America Devi, brother / Ashok Sharma and daughter-in-law / Sonia Devi arrived at the place of occurrence. Appellant No. 1 / Suresh Choupal, in the meantime, called his fellows. Thereafter, the other accused persons came and assaulted him. The wife and daughter-in-law of P.W. 5 were also assaulted. Appellant / Sanjay Choupal assaulted him by means of an iron rod on his right hand.



9. Dr. Lalan Prasad Singh / P.W. 6 has examined the female relatives of P.W. 5, namely, Sita Devi and America Devi and did not find any external injury on their person. On the person of P.W. 5, though, four injuries were found, but all of them were opined to be simple in nature. Only one injury, namely, injury no. 2 was found to be on the occipital / parietal region of P.W. 5. Another injured person, namely, Ashok Sharma is also said to have received simple injuries but five in number.

10. From the deposition of the witnesses as also the injury reports (Exhibit – 2 to 2/3), the offences charged against the appellants stand proved.

11. It has been submitted on behalf of the appellants that they have been falsely implicated in this case because of land dispute.

12. Though land dispute is admitted by P.W. 5 and other witnesses, but for the aforesaid land dispute, the occurrence seems to have taken place.

13. Thus the conviction of the appellants is upheld and affirmed.

14. However, looking at the circumstances, the manner of assault and pending land dispute between the parties, this Court is of the view that the interest of justice would be satisfied if the sentences imposed upon the



appellants is reduced to the period of custody which they have already undergone.

15. Thus, the appeal is partially allowed with the affirmation / upholding of the conviction but reduction of the sentence to the period already undergone by the appellants.

16. Appellants No. 2 and 3, namely, Chandra Prakash @ Chandra Prakash Choupal @ Gunai Choupal and Sanjay @ Sanju Choupal @ Sanjay Kumar Choupal are on bail. They are discharged of the liabilities of their bail bonds.

17. Appellant No. 1, namely, Suresh Choupal is in jail. He is directed to be released forthwith, if not required in any other case.

A copy of the judgement be transmitted to the Superintendent of the concerned Jail for information, compliance and records.

**(Ashutosh Kumar, J)**

skm/-

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| AFR/NAFR          | NAFR       |
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