

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.113 of 2003

Arising Out of PS.Case No. -null Year- null Thana -null District- SASARAM (ROHTAS)

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1. Bali Singh @ Ram Bali Singh, son of Late Mahadeo Mahto
 2. Kanhai Singh, son of Late Mahadeo Mahto
 3. Ramayan Singh, son of Bali Singh, all residents of village Chhitauli, P.S.
Rohtas, District Rohtas

.... Appellants

Versus

The State of Bihar

.... Respondent

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Appearance :

For the Appellant/s : Mr. Mahesh Narayan Parbat, Sr.Advocate with
Mr. Ved Prakash Srivastava, Advocate

For the Respondent/s : Mr. Bipin Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA

ORAL JUDGMENT

Date: 21-03-2018

Appellant No.1 Bali Singh @ Ram Bali Singh has been convicted under Section 324 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for one year and appellants Nos. 2 and 3, namely, Kanhai Singh and Ramayan Singh, have been convicted under Section 323 IPC and sentenced to undergo rigorous imprisonment for six months vide judgment and order dated 4.2.2003 passed by Sri Baleshwar Prasad Singh, the then Presiding Officer, Additional Court No.1, F.T.C., Sasaram in Sessions Trial No. 619/89/261/2002.

2. Prosecution case, which has been initiated on the basis of fardbeyan of Ramjee Singh (PW 3), in short, is that on 5.7.1988 at about 7.30 A.M. in the morning, the informant (PW 3) was putting the



thatch on the hut in his land and in the meantime the appellant Bali Singh armed with Garasa and appellants Kanhai Singh, Ramayan Singh and accused Mahadeo Singh (since died) armed with lathi came there and told the informant, not to put the thatch on the hut. The informant then retorted and told them that as the land belonged to him he had every right to put the thatch, thereafter accused Mahadeo Singh (since died) ordered the appellants to assault the informant, on which appellant Bali Singh gave Garasa blow on the head of informant causing bleeding injury on his head and again he hurled another Garasa blow on him but the same did not hit him. Further it is alleged that appellants Kanhai Singh, Ramayan Singh and accused Mahadeo Singh (since died) started assaulting the informant with lathi causing injuries to him on different parts of his body and on hulla witnesses came there to rescue the informant and the accused persons fled away.

3. On the basis of aforesaid fardbeyan, Rohtas P.S.Case No. 75 of 1988 was registered and post investigation, charge sheet has been submitted by police and cognizance of the offence has been taken and as offence under Section 307 IPC is triable by Sessions Judge the case has been committed to the court of sessions, which ultimately came to the file of learned Trial Judge for trial and disposal.

4. During trial, charges were framed under Sections 307/34



IPC against all the appellants.

5. Prosecution in order to substantiate its case has examined altogether seven witnesses, they are PW 1 Deoraj Ram, who claims to be an eye-witness to the occurrence, PW 2 Manorma Devi, wife of informant, PW 3 Ramjee Singh, the informant and injured, PW 4 Gariban Yadav, PW 5 Ramashish Yadav, who has been declared hostile, PW 6 Yogendra Paswan, the Investigating Officer and PW 7 Dr. Pramod Kumar, who has examined the informant Ramjee Singh (PW 3).

6. On behalf of defence no evidence either oral or documentary has been adduced and their defence as per trend of cross examination and statement under Section 313 Cr.P.C. is of false implication and of innocence.

7. Learned trial court after conclusion of trial finding no case under Section 307/34 IPC, however has convicted appellant No.1 under Section 324 IPC and other two appellants under Section 323 IPC and sentenced them as stated above.

8. Contention of learned counsel for the appellants is that whole prosecution case is false and concocted which will appear from the fact that fardbeyan was recorded at 9.30 hours but injury report was issued at 7.30 A.M. on requisition of police which is not believable. Further submission of learned counsel is that during



evidence in court the witnesses have improved the case and come to a story of setting the hut on fire and the same has been disbelieved by learned trial court and learned trial court has also not found the case true under Section 307 IPC. However, on the same evidence the appellants have been convicted under Sections 323 and 324 IPC which does not appear to be sustainable in the eye of law.

9. On the other hand, learned counsel for the State has defended the impugned judgment on the ground that there are consistent evidences available on record that appellant Bali Singh first assaulted the informant (PW 3) by Garasa on his head, causing bleeding injury to him and then other appellants assaulted him by lathi causing injuries on different parts of his body and Doctor has found injuries on the person of informant Ramjee Singh and I.O. has also been examined in this case and he has proved the place of occurrence, as such time of occurrence, genesis of occurrence and manner of occurrence have been established by the prosecution, hence there is no infirmity in the impugned judgment and it does not require any interference by this Court.

10. Considering the evidence available on record in the background of submission of both the parties it appears that Ramjee Singh (PW 3) has supported the prosecution case and has stated about assault by Bali Singh with Garasa and by other two appellants with



lathi and Doctor has also found injuries on the person of Ramjee Singh (PW 3) on his head and other parts of his body, as such, manner of occurrence as stated by the informant (PW 3) has been corroborated by the evidence of Doctor. So far other evidences are concerned, the evidences were found corroborated by the evidence of PW 3 about time of occurrence, manner of occurrence and genesis of occurrence and the evidence of Doctor (PW 7) also shows he has found the following injuries on the person of informant Ramjee Singh (PW 3) :-

- (i) Cut injury on head of the size 1-1/4" x 1/2" x 1/5"
- (ii) Swelling on the back 2-1/2" x 1"
- (iii) Swelling on left thigh 1-1/2" x 3/4"
- (iv) Swelling on left side chest 2" x 3/4"

All injuries are simple in nature. Injury No.(i) is caused by sharp cutting weapon and other injuries are caused by blunt substance.

11. Considering the injuries found on the person of informant (PW 3) Ramjee Singh, which support the prosecution case, I do not find any infirmity and inconsistency in the prosecution evidence and the evidence is consistent so far genesis of occurrence, time of occurrence and manner of occurrence, as such, conviction of appellant No.1 under Section 324 IPC and appellants 2 and 3 under Section 323 IPC does not suffer from any infirmity and inconsistency. Their



conviction is affirmed.

12. Learned counsel for the appellants has submitted that the occurrence is 30 years old and appellants have remained in custody for 11 days, 12 days and 7 days respectively and no useful purpose will be served in sending them in custody again specially on the fact that at the time of judgment in the year 2003 appellants were at the age of 45 years, 45 years and 30 years and by now they must be at the age of 60 years and 45 years, as such sentence be reduced to the period already undergone by them in custody.

13. I find force in the submission of learned counsel for the appellants. Considering the above submission, their sentence is modified to the period already undergone by them in custody.

14. This appeal is dismissed with the above modification in sentence.

(Vinod Kumar Sinha, J)

spa/-

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