

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Appeal (SJ) No.662 of 2002**

**Against the judgment of conviction and order of sentence dated 27.11.2002 passed in Sessions Trial No.55 of 1993/462 of 2002 by Adhoc District & Sessions Judge, Presiding Officer, 1<sup>st</sup> Addl. Fast Track Court, Siwan.**

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1. Triloki Nath Pandey, son of Raji Ram Pandey
  2. Chhiteshwar Pandey, son of Ganga Pandey
  3. Toonoo Mian @ Arhfaque Ali @ Md. Asfaque @ Toono Mian son of Hassan Imam
  4. Jhanan Mian son of Hassan Imam.
- All resident of village- Chandpur, Police Station-Siswan, District-Siwan.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Raghav Prasad, Advocate  
For the Respondent/s :

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**ORAL JUDGMENT**

**Date : 05-01-2018**

Appellant No.1 Triloki Nath Pandey, who has been convicted for offences under Sections 148/324 of the Indian Penal Code to undergo sentence for one year RI and appellant Nos.2, 3 and 4, who have been convicted and sentenced to undergo six months RI for offence under Section 147/323 IPC, have filed this appeal under Sections 374(2) and 389(1) of the Code of Criminal Procedure challenging their conviction ordered on 27.11.2002 by the 1<sup>st</sup> Additional Fast Track Court, Siwan.

Having heard learned counsel for the parties, it is seen that the incident in question took place more than 20 years back on 04.02.1991, that also on account of a land dispute that had taken place between the parties and in the matter of installing a peg on the land a dispute and altercation took place. There are various lacunas in the case of the prosecution inasmuch as the doctor, who



had examined the injured complainant, has not entered the witness box and even the Investigating Officer has not been examined. However, the prosecution has proved the injury report, Ext-3, by examining Dr. Arif, who was the Incharge Medical Officer of the Additional Primary Health Centre of Chandpur, Siwan on the date of incident, i.e. 04.02.1991 and from the injury report it is seen that the injuries are simple in nature.

Taking note of the totality of the circumstances, it is appropriate to allow this appeal in part. Even though the conviction of the appellants are upheld, they are sentenced to undergo the jail imprisonment of about three and half months already undergone. Accordingly, the appellants are discharged after cancellation of their bail bonds.

**(Rajendra Menon, CJ)**

Sunil/-

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