

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.39 of 2009

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1. Devi Yadav son of late Gangu Yadav
2. Baleshwar Yadav son of late Gangu Yadav
3. Sanjay Yadav son of Sri Devi Yadav
4. Ashok Yadav son of Sri Devi Yadav
5. Durga Yadav son of Sri Baleshwar Yadav
6. Bhagloo Yadav son of Sri Baleshwar Yadav
7. Sunil Yadav son of Sri Devi Yadav
All are R/o vill. Rajadih, P.S. Sikadara Dist. Jamui.

... .. Appellant/s

Versus

The State of Bihar

.. ... Respondent/s

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Appearance :

For the Appellant/s : Mr. S.K. Lal, Advocate
For the Respondent/s : Mr. Bal Mukund Prasad Sinha
APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT
Date : 10-05-2018

Heard Mr. S.K. Lal learned counsel for the appellants
and Mr. Bal Mukund Prasad Sinha for the State.

By way of present appeal, appellants seek to challenge the
judgment of conviction dated 25.11.2008 and order of sentence
dated 29.11.2008/1.12.2008, passed by Sri Rabindra Prasad
Thakur, Additional District & Sessions Judge- cum- Presiding
Officer, Fast Track Court No. III, Jamui in Sessions Trial No.
362/06, whereby the appellant nos.1, 4 and 6, namely, Devi
Yadav, Ashok Yadav and Bhagloo Yadav stood convicted under



Section 325 of the Indian Penal Code and were sentenced to undergo rigorous imprisonment for three years. Appellant no. 3, namely, Sanjay Yadav was convicted under Section 324 of the IPC and was sentenced to undergo rigorous imprisonment for two years. Appellant nos. 2,4, 5 and 7, namely, Baleshwar Yadav, Ashok Yadav, Durga Yadav and Sunil Yadav, were convicted under Section 323 of the IPC and were sentenced to undergo R.I. for six months. All the sentences were directed to run concurrently.

The prosecution case as per written complaint is that on the date of occurrence the informant had gone to see water in his agriculture field for the purpose of sowing paddy crops. He saw accused Devi Yadav was taking water from the land of informant to his own field. Informant started to close outlet to stop the flow of water as the informant also required water to sow paddy on which accused Devi Yadav started abusing and, on protest, by the informant, Devi Yadav assaulted Lalan Yadav (informant) with lathi causing injuries on his head and other parts of his body. The father of the informant Sahdeo Yadav and brother Baijnath Yadav came to rescue the informant then accused persons, namely Ashok Yadav, Sanjay Yadav, Sunil



Yadav, Baleshwar Yadav, Bhagloo Yadav and Durga Yadav assaulted them with lathi and paina. Accused Sanjay Yadav is alleged to have inflicted *Bhala* blow causing injury on his right leg and other accused persons assaulted with fists, slaps and lathis in which the father of the informant also received injuries. The villagers, namely Darogi Yadav and others came to their rescue and they have also seen the occurrence.

The prosecution has, in all, examined eight witnesses in the Court below. PWs-5 and 6, namely Gurudeo Yadav and Indradeo Yadav have been declared hostile by the prosecution. They have denied to have seen the occurrence. The other witnesses have supported the prosecution case. Dr. Purosottam has been examined as PW-7. He has proved the Medical examination report of all the injured, namely, Lalan Yadav, Baijnath Yadav and Sahdeo Yadav which has been marked as Exts. 2, 2/1 and 2/2. Baijnath Yadav (PW2) Sahdeo Yadav (PW3) and Lalan Yadav (PW4) have all supported the case in their evidence. They have sustained injuries during the occurrence. The



evidence of the Doctor (PW7) supports the injury on the person of these injured persons. Therefore, this Court does not find any illegality in the judgment of conviction passed by the Court below against these appellants.

So far as the sentence are concerned, looking into the nature of the offence committed by the appellants and also the fact they are facing rigour of trial since the year 2006 the sentence passed by the Court below is modified to the period already undergone by them. Appellants are not required to go to custody any further.

Accordingly, the appeal is dismissed with modification in sentence as ordered above.

(Sanjay Priya, J)

shyambihari/-

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