

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.535 of 2002

Arising Out of PS.Case No. -null Year- null Thana -null District- SARAN

- =====
1. Anil Prasad @ Anil Kishore Singh, son of Ramjee Prasad @ Ramjee Prasad Singh
 2. Ramjee Prasad @ Ramjee Prasad Singh, son of late Jang Bahadur Prasad Singh
 3. Dashrath Prasad, son of late Gauri Shankar Prasad, resident of village Dhenuki, P.S. Kopa, district Saran
 4. Shreekant Prasad @ Shreekant Prasad Singh, son of Ramjee Prasad @ Ramjee Prasad Singh
 5. Dudhnath Prasad @ Dudhnath Prasad Singh, son of Ramjee Prasad @ Ramjee Prasad Singh, appellants 1, 2, 4 and 5 residents of village Gouri Shankar Ke Bangra, P.S. Jalalpur, district Saran Appellants

Versus

The State of Bihar

.... Respondent

=====

Appearance :

For the Appellants : Mr. Harshvardhan Shivsundaram, Adv.

For the Respondent :

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 05-01-2018

Challenging their conviction by the Additional District & Sessions Judge, Fast Track Court II, Saran at Chapra, in Sessions Trial No. 67 of 1997/384 of 2002 for offences under Sections 147 and 323 of the Indian Penal Code, appellants have filed this appeal.

2. During the pendency of the matter, it was reported that appellant no. 2, Ramjee Prasad @ Ramjee Prasad Singh, and appellant no. 5, Dudhnath Police Station @ Dudhnath Prasad Singh, have expired and, therefore, a report was called for from the Superintendent of Police, Saran at Chapra, who vide his communication, dated 16.12.2017, has forwarded information, which goes to show that appellant no. 2, Ramjee Prasad @ Ramjee Prasad Singh, has died on 03.07.2014, and appellant no. 5, Dudhnath Police Station @ Dudhnath Prasad Singh, on 07.03.2005, as is evident from the death certificate annexed. In view of the above, the appeal, so far as appellant no. 2, Ramjee Prasad @ Ramjee Prasad Singh, and appellant no. 5, Dudhnath Police Station @ Dudhnath Prasad Singh, are concerned stands abated.



3. As far as other appellants are concerned, it is the case of the prosecution that on 19.05.1996 at about 08.30 A.M., an Advocate, who was appointed as Advocate Commissioner in Title Suit No. 37 of 1992 had gone to the village in question along with representatives of parties and the Court Commissioner for measuring the land of the informant, P.W. 5, Chandrama Sharma, it is alleged that Ramjee Prasad and Dashrath Prasad, appellants herein, objected to the measurement being made and when the Court Commissioner proceeded with the measurement, it is alleged that Ramjee Prasad and Dashrath Prasad assaulted the Court Commissioner and other officials and the appellants, Anil Prasad, Shreekant Prasad and Dudhnath Prasad were present and abetted them.

4. Accordingly, the matter was taken up and, after trial, the appellants have been convicted. Appellants Ramjee Prasad and Dashrath Prasad have been convicted under Sections 147 and 323 of the Indian Penal Code and they have been sentenced to undergo one year rigorous imprisonment on both counts. Similarly, other appellants have been convicted under Sections 149 and 324 of the Indian Penal Code and have been sentenced to undergo two years rigorous imprisonment, as indicated here-in-above. Main accused, Ramjee Prasad, who was instrumental and against whom evidence of assault on the Advocate Commissioner as come on record, has expired. The other accused person, who was instrumental in assaulting the Advocate Commissioner, was appellant no. 3, Shreekant Prasad.

5. From the statements of the eye witnesses, namely, P.W. 5, Chandrama Sharma, the informant, P.W. 6, Shri Krishna Mohan Pandey, and other eye witnesses, it is seen that the injuries, which were caused by the accused persons were mainly on his chin and on right thumb and there were simple injuries caused by assault made by Ramjee Prasad. As far as Dudhnath Prasad is concerned, he is said to have



assaulted the informant, but, no specific injury is available in the medical report, exhibited on record. That apart when the incident took place in the year 1996, Dashrath Prasad was sixty years of age and now he would be around ninety years of age, taking note of the aforesaid no useful purpose would be served by now sending Dashrath Prasad back to jail for undergoing remaining part of the sentence. On the contrary, records indicate that the appellants have undergone jail since for more than four months during the period the matter was pending before the trial Court and this Court. That apart as far as appellants Anil Prasad and Shreekant Prasad are concerned, omnibus and general allegations are levelled against them and taking note of totality, it is a fit case to be allowed.

6. In the result, this appeal is allowed, in part, as the appellants have already undergone in custody during the period of trial.

(Rajendra Menon, CJ)

SA/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	09.01.2018
Transmission Date	N/A

