

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.41 of 2009

(Against the Judgment of conviction and order of sentence dated 12/14.01.2009 respectively passed by the learned Special Judge, Munger, in Sessions Case No. 156 of 2005 arising out of Complaint Case No. 133C of 2001)

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1. Ram Sagar Sah, son of late Dwarika Sah
 2. Chandradeo Sah @ Dukhan Sah, son of Ram Sagar Sah
 3. Subhash Sah, son of Ram Sagar Sah
 4. Sanjay Sah, son of Ram Sagar Sah
- All residents of village Lohachi, P.S. Kharagpur, Distt. Munger.

.... Appellant/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Arun Kumar Tripathi, Advocate.
Amicus Curiae.
For the informant : Mr. Sandeep Kumar, Advocate.
Mr. Rana Vikram Singh, Advocate.
Mr. Ansul, Advocate.
For the State : Mr. Bal Mukund Prasad Sinha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 10-05-2018

1. This Criminal Appeal has been filed against the judgment of conviction and order of sentence dated 12/14.01.2009 respectively, passed by the learned Special Judge, Munger, in Sessions Case No. 156 of 2005 arising out of Complaint Case No. 133C of 2001 by which the Appellant has been convicted under Section 3 (i) (x) of SC/ST Prevention of Atrocities Act and Sections 148, 323 and 504 of the Indian Penal Code. The appellants were sentenced to undergo rigorous imprisonment for three years for offence under Section 3 (i) (x) of SC/ST Prevention of Atrocities Act,



rigorous imprisonment for one year for the offence under Section 148 of the Indian Penal Code and six months each for the offence under Sections 323 and 504 of the Indian Penal Code. All the sentences were ordered to run concurrently.

2. None appeared on behalf of the appellants. Earlier on 26.04.2018 also none had appeared and, therefore, Mr. Arun Kumar Tripathi has been appointed as Amicus Curiae in this case.

3. Heard learned counsel for the appellants and learned Amicus Curiae.

4. The case of the prosecution as per complaint petition filed by Hira Lal Choudhary is that the Appellants along with other unknown criminals variously armed with pistol and lathi arrived at the land of the complainant and forcibly started digging the land with an intention to dispossess complainant from that land. It is further alleged that when the complainant protested, accused persons assaulted the complainant with fists and slaps and also abused him by calling his caste name as "*Pasi*". They also told the complainant that there is no place in village for complainant and other members of Pasi community to live. The accused persons dismantled their house and other property. Thereafter, the accused persons left the place after giving threat to the complainant to vacate the land and village.

5. The prosecution during trial has produced



altogether five witnesses. The court below after appreciating the evidence has convicted these appellants for the offence under Sections 148, 323, 504 of the Indian Penal Code and Sections 3 (i) (x) of SC/ST Act Prevention of Atrocities Act.

6. From perusal of the prosecution witnesses, it appears that all of them have supported the case of the complainant. They have also stated in their evidence that complainant has right title and interest over the land in question.

7. All the Prosecution witnesses have stated that accused persons assaulted and abused the complainant and also called him by his caste name as “*Pasi*” and gave threat to vacate the village as there is no place in the village for the people of “*Pasi*” community.

8. Therefore, this Court does not find any illegality in the judgment of conviction passed by the court below.

9. The Judgment of conviction is accordingly affirmed.

10. So far sentence is concerned, this Court finds that trial is of the year 2005. The appellants have faced rigors of trial since 2005. Therefore, looking into the nature of allegation, the sentence passed against these appellants is modified to the period already undergone under all counts. The appellants will not be required to go to jail any further.



11. This Criminal Appeal is accordingly dismissed
with modification in sentence as stated above.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	21/05/2018
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