

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.42 of 2003

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Lila Devi @ Nilam Devi D/o of Raghunath Prasad Yadav and wife of Narendra Pratap Singh, resident of village-Hisua, P.O. + P.S. Hisua, District Nawadah

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Shivesh Chandra Mishra

Mr. Santosh Kumatr

For the State

Mr. Bipin Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT
Date : 03-02-2018

Heard Mr. S.C. Mishra, learned counsel appearing on behalf of the appellant and learned APP of the State.

2. The sole appellant in the present appeal has challenged the validity of the judgment of conviction dated 04.12.2002 passed by learned 1st Additional District and Sessions Judge, Nawadah in Spl. (H) Case No. 100(H) of 1995, whereby the learned trial court convicted the appellant for the offence punishable under Section 326 of the Indian Penal Code and sentenced her to undergo R.I. for two years.

3. The prosecution case as adumbrated in the Fardbayan is as follows:-

“The informant was sleeping out side of her
house in the intervening night of 20th and 21st July,



1993. The informant woke up in the midnight and remained awaken. The informant saw the appellant and three accused persons namely 1. Krishna Koeri, 2. Sudama Koeri and Shivaji @ Shankar Koeri all sons of Raudi Gope coming near the informant. It is alleged that co-accused Krishna Koeri told to burn the informant by sprinkling the Acid whereupon the appellant three acid on the informant causing injuries over the whole body. The Informant raised alarm and also chased the accused persons. The neighbours came running and the appellant was caught. The rest of the accused persons fled away. It is said that co-accused Krishna Koeri received burnt injuries on his leg. The Informant was taken to the Hospital by villagers. The motive behind the occurrence is that the appellant was residing in front of the house of the informant and one Doctor Chandrika used to visit the house of the appellant in the night. The informant used to sing song at 3.A.M. daily. This was not liked by them and the accused persons used to say that the informant used to see



him coming and going.”

4. On the basis of the Fardbayan, Sirdalla P.S. Casde No. 81 of 1993 was registered. The police, after due investigation, submitted the charge-sheet against four accused persons under Sections 324, 326 and 307/34 of the Indian Penal Code and section 3(x) of the S.C./ST (Prevention of Atrocities) Act. Cognizance of the offence was taken and the case was committed to the court of sessions. After framing of the charges, the accused persons pleaded not guilty and, as such, they were put on trial.

5. On behalf of the prosecution, altogether, six witnesses were examined. P.W.1 Manti @ Malti Devi si the informant of the case. P.W. 2 Sanjay Chaudhary is the son of the informant. 3 Bachchu Chaudhary is the uncle, whereas P.W.4 Malo Devi is the mother of the informant. P.W. 5 is the doctor who has examined the informant and P.W. 6 is the I.O. of the case.

6. The trial court, on the basis of the scrutiny of material on record and analyzing the evidence of the witnesses, convicted the appellant of the offence and acquitted other accused persons, namely, Shankar Prasad, Sudama Prasad and Krishna Prasad on the ground that the evidence of the



informant has not been corroborated by other witnesses and the informant and the appellant were on inimical terms.

7. Mr. Mishra, learned counsel appearing on behalf of the appellant, submitted that the trial court convicted the appellant and acquitted the other accused persons. Admittedly the appellant and the informant were inimical to each other from before. The trial court relied upon the testimony of the informant whereas the other accused persons were acquitted on the ground of lack of corroboration by other witnesses. Learned counsel submits that in the present case the I.O. has not found any sign of acid either on the cot or the bed of the informant where the informant was sleeping at the time of occurrence, nor he found any mark of acid at the place of occurrence and, as such, Mr. Mishra submits that the story of acid attack on the informant is not established in the present case. However, on going through the medical report, the learned counsel for the appellant conceded that superficial injury was found by the doctor. It is next submitted by the counsel for the appellant that the occurrence is of the year 1993. Nine years time was consumed by the trial court and the appeal remained pending for nearly 15 years. He next submits that



considering the fact that other accused persons were granted the benefit of doubt on the ground that the informant and the appellant were on inimical terms and there was no corroborative evidence to support the case of the prosecution, he submits that in the backdrop of the aforesaid facts situation, ends of justice will be served if a lenient view of the matter is taken by the Court by reducing the sentence.

8. Learned counsel, appearing on behalf of the State although supports the case of the prosecution so far as the allegation part is concerned, but also admits that the incident is of the year 1993 and approximately 25 years have passed. In the totality of the facts situation when the trial court has only awarded the sentence of two years, the Court may consider the desirability of converting the sentence into fine of Rs. 5000/- payable to the victim.

9. I have gone through the materials available on record and considering the evidence on record coupled with the fact that other co-accused persons have been granted the benefit of doubt and acquitted by the trial court, the case of the appellant, who happens to be a lady, deserves a pragmatic approach.



10. The appellant was convicted under section 326 of the IPC and the nature of injury was found to be superficial and, as such, the Court is of the view that, instead of sending the appellant to jail custody to serve the remaining period of sentence, the sentence of the appellant is converted from two years imprisonment to a fine of Rs. 5000/-, payable to the victim.

11. Accordingly, while upholding the conviction, his sentence is converted as a fine of Rs. 5000/- to be payable to the victim or the family of the victim within a period of three months from today. Since the appellant is on bail, she shall be discharged from the liability of bail bond only on payment of a fine of Rs. 5000/- within the aforesaid period.

12. With the aforesaid modification in the order of sentence, the appeal stands disposed of.

(Anil Kumar Upadhyay, J)

HR/-

AFR/NAFR	NAFR
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