

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.20 of 2009

Arising Out of PS.Case No. -0 Year- null Thana -null District- EASTCHAMPARAN (MOTIHARI)

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1. Ram Neh Singh
2. Ram paras Singh, both sons of late Sarju Singh, Resident of Village- Hira
Chapra, P.S. Kalayanpur, Distt. West Champaran Appellant/s
Versus
State of Bihar Respondent/s

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Appearance :

For the Appellant/s : Mr. Satyapal Singh, Adv.
For the State : Mr. Parmeshwar Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

ORAL JUDGMENT

Date: 24-09-2018

Appellants Ram Neh Singh and Ram paras Singh have been found guilty for an offence punishable under Section 323 of the Indian Penal Code and each one has been sentenced to undergo R.I. for one year, under Section 504 I.P.C. and sentenced to undergo R.I. for one year with a further direction to run the sentences concurrently vide judgment of conviction and order of sentence dated 15.12.2008 passed by F.T.C.-IV East Champaran at Motihari in connection with Sessions Trial No. 531 of 1995 / 280 of 2006.

2. Chaturi Bhagat (P.W.-2) gave his fardbeyan on 06.10.1993 at P.H.C, Kalyanpur where his son/injured Murli Bhagat (P.W.-4) was admitted disclosing therein that on the same day at about 5 p.m. his grand-daughter was scolded by the sons of Ram Paras Singh during course of returning from school on account of grazing of crops by his she-goat and during course thereof, she was also assaulted by fists and slaps. His grand-daughter came back weeping whereupon, he rebuked the sons of Ram Paras Singh and Ram Neh Singh and in the aforesaid background, Ram Neh Singh and Ram Paras Singh armed with *Lathi* came at the *Darwaja* and began to abuse. His son Murli Bhagat came out and protested whereupon, on an order of Ram Paras Singh, Ram Neh Singh gave



Lathi blow over head of Murli followed by another blow over his back. Ram Paras Singh had also hurled *Lathi* over head of the Murli, as a result of which, he fell down and became un-conscious. Then he has been shifted to hospital.

3. On the basis of the aforesaid fardbeyan, Kalyanpur P.S. Case No. 50 of 1993 was registered followed with an investigation as well as submission of charge-sheet, basis for trial, meeting with the ultimate result, subject matter of instant application.

4. Defence case, as is evident from mode of cross-examination as well as statement recorded under Section 313 of the Cr.P.C., is that of complete denial. Furthermore, it has also been pleaded that as prosecution party tried to encroach upon the land of the accused lying adjacent to the house of the prosecution party and being resisted, this false case has been instituted. However, nothing has been adduced in support of defence.

5. Learned counsel for the appellant has mainly confined the submission relating to the sentence and to justify the same, it has been submitted that the date of occurrence happens to be 06.10.1993, approximately 25 years have passed. It has also been pleaded that appellants have got no criminal antecedent. It has also been submitted that from the narration of the prosecution case, it is evident that occurrence had not taken place in a pre-planned manner rather it took place in spur of moment in the background of activity having at the end of the prosecution party. Moreover, due to non-examination of the I.O. and doctor, the relevant materials could not be brought up on the record and in likewise manner, the interest of appellants have also been prejudiced. It has also been submitted that during course of trial, both the appellants remained under custody, appellant Ram Paras Singh was sent to judicial custody on 16.10.1993 while Ram Neh Singh was remanded on 29.10.1993. They were released on bail on 30.10.1993. Furthermore, statement of both the appellants, which was recorded



on 25.09.2008, disclosed their age as 53 years and 56 years respectively so, for the present both the appellants would be around 80 years. So, attract interference over sentence for allowing them to avail provision of the probation of offenders Act.

6. The learned Additional Public prosecutor submitted that for want of examination of I.O. as well as doctor, the learned lower court already considered the same while inflicting the sentence holding the appellants guilty for offences punishable under Section 323 IPC as well as Section 504 of the IPC. However, the learned Additional Public Prosecutor fairly concedes with regard to age of both the appellants as well as the dispute arose on trivial issue and the occurrence, an outcome of spur of moment.

7. Giving anxious consideration to the facts and circumstances of the case, maintaining the conviction, sentence is reduced to already undergone under both heads and further, both the appellants, namely, Ram Neh Singh and Ram Paras Singh are independently fined Rs. 1,000/- with regard to Section 323 of the IPC and in default thereof, to undergo S.I. for four months, fine of Rs. 2,500/- each under Section 504 of the IPC and in default thereof, to undergo S.I. for six months. The fine amount must be deposited within four weeks, failing which the learned lower court will be at liberty to proceed in accordance with law.

8. In terms thereof, the appeal is partly allowed. Appellants are on bail, hence, are discharged from liability of bail bonds.

(Aditya Kumar Trivedi, J)

sushma/-

AFR/NAFR	NAFR
CAV DATE	NA
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