

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.461 of 2015

Arising Out of PS.Case No. -9 Year- 2002 Thana -WARSALIGANJ District- NAWADA

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1. Sako Yadav Son of Late Harkhit Yadav
2. Ramchandra Yadav Son of Late Harkhit Yadav
3. Rameshwar Yadav Son of Jagdish Yadav
4. Siddheswar Yadav Son of Jagdish Yadav All are Resident of village - Sambe,
P.S. Warisaliganj, District – Nawada Appellant/s

Versus

1. The State of Bihar Respondent/s

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Appearance :

For the Appellant/s : Mr. Hansraj, Adv.
Mr. Mrigendra Kumar, Adv.
For the Respondent/s : Mr. Sujit Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

ORAL JUDGMENT

Date: 27-07-2018

Appellants, Sako Yadav, Ramchandra Yadav,

Rameshwar Yadav and Siddheswar Yadav have been found guilty for the offences punishable under Section 323/34 IPC and sentenced to undergo RI for 1 year as well as to pay fine of Rs. 1000/- in default thereof, to undergo SI for 1 month additionally, under Section 324/34 IPC and sentenced to undergo RI for 3 years as well as to pay fine of Rs. 2000/- and in default thereof, SI for 3 months additionally with a further direction to run the sentences concurrently by the Additional Sessions Judge-3rd, Nawada vide judgment of conviction and order of sentence dated 26.03.2015 passed in connection with Sessions Trial No. 348/2014/160/2014.

2. The prosecution case as is evident from the written report filed by the informant, Pramod Kumar on 11.02.2002 is



that on the same day at about 8.00 PM while he was sitting at Darwaza of Saryu Pandit and was gossiping with Parmeshwar Mahto, Saryu Pandit, Bishundeo Mahto, at that very time, Ram Chandra came and said that Amrik Yadav is calling whereupon, he accompanied Ram Chandra to his Darwaza where Ram Chandra armed with Garasa, Sako Yadav armed with axe, Sidheshwar Yadav and Rameshwar Yadav armed with Lathi began to assault with an intention to kill. On hue and cry, villagers including Karu Yadav, Gorelal Yadav, Dwarika Yadav and others came and rescued him. Motive for the occurrence has been shown on account of land dispute.

3. After registration of Warsaliganj PS Case No. 09/2002, investigation commenced and concluded by way of submission of charge-sheet, facilitating the trial, meeting with ultimate result, the subject matter of instant appeal.

4. Defence case as is evident from the mode of cross-examination as well as statement recorded under Section 313 CrPC is that of complete denial. However, nothing has been adduced in their defence.

5. In order to substantiate its case, prosecution had examined altogether 7 PWs out of whom PW-1, Pramod Kumar, PW-2, Saryug Pandit, PW-3. Parmeshwar Mahto, PW-4, Bishundeo Mahto, PW-5, Gorelal Yadav, PW-6, Dr. Ashok Kumar and PW-7,



Karu Yadav, as well as had also exhibited Ext-1, Signature of informant over written report, Ext-2, Injury report, Ext-2/1, Supplementary Injury report. Nothing has been adduced in defence.

6. It has been submitted on behalf of appellants that Investigating Officer has not been examined. Also submitted that PWs-2, 3, 4, 5 and PW-7 have not supported the case of the prosecution. That being so, the remaining evidence happens to be that of PW-1, Pramod Kumar, informant and PW-6, Dr. Ashok Kumar. It has further been submitted that during course of cross-examination of PW-1, due to some slackness, he was not at all cross-examined on the material points, however, from his evidence, it is apparent that this case suffers from improbability as the land dispute was coming since before with the appellants and further, the informant had not disclosed that he was on talking terms with the accused persons then in that circumstance, asking by Ram Chandra to follow as he was being called upon by Amrik Singh to his Darwaza could not be accepted. However, fairly submitted that there happens to be no cross-examination over manner of occurrence as well as place of occurrence. In the aforesaid background, it has been submitted that in absence of criminal antecedents of appellants coupled with the fact that they have not indulged with criminal activity against the informant at any earlier time, and had there been proper cross-



examination, then the prosecution version would not survive. Moreover, the motive as disclosed supports the present incident in the background of land dispute. Appellants suffered a lot since 2002 and that being so, even it is found that the prosecution has been able to substantiate its case, the sentence be modified as already undergone which the appellants have during course of pre trial stage.

7. Learned APP did not object on that very score considering the nature of the case as well as the status of the witnesses though, had submitted that in accordance with Section 134 of the Evidence Act, evidence of single witness, more particularly, if he is an injured corroborated by the evidence of doctor could be sufficient to justify the findings.

8. After considering the rival submissions as well as going through the evidence available on the record, it is needless to say that the allegations whatsoever attributed at the end of PW-1 is not at all found corroborated by PWs-2, 3, 4, 5 and 7. It is further evident from the evidence of PW-1 that on account of land dispute, this occurrence had taken place. It is also further evident from the record that there happens to be no material to infer the previous activity of the appellants being delusive. Furthermore, the injuries whatever found at the end of PW-6, doctor is found simple in nature. So considering the overall situation prevailing on the record, the



submissions having at the end of the appellants is found duly appreciable whereupon confirming the conviction as recorded by the learned lower court and the sentence is modified as already undergone and in terms thereof, the instant appeal is disposed of.

9. Since appellants are on bail, they are discharged from the liability of bail bonds.

(Aditya Kumar Trivedi, J)

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