

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.33 of 2009

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KAMALA SINGH, SON OF LATE HIRALAL SINGH RESIDENT OF
VILLAGE CHANAWATH, P.S.-NAWANAGAR, DISTRICT-BUXAR.

.... APPELLANT/S

VERSUS

THE STATE OF BIHAR

.... RESPONDENT/S

WITH

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Criminal Appeal (SJ) No. 79 of 2009

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1. PATI RAM SINGH, SON OF RAGHU NATH SINGH.

2. BUDHI RAM SINGH, SON OF PATI RAM SINGH.

3. LALAN SINGH, SON OF BUDHI RAM SINGH.

ALL RESIDENT OF VILLAGE-CHANWAN, P.S.-NAYA NAGAR,
DISTRICT-BHOJPUR.

.... APPELLANT/S

Versus

THE STATE OF BIHAR

.... RESPONDENT/S

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Appearance:

(In CR. APP (SJ) No.33 of 2009)

For the Appellant/s : Mr. Chandra Mohan Singh, Adv.

For the Respondent/s : Mr. Bipin Kumar, APP

(In CR. APP (SJ) No.79 of 2009)

For the Appellant/s : Mr. Chandra Mohan Singh, Adv.

For the Respondent/s : Mr. Bipin Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

ORAL JUDGMENT

Date: 26-09-2018

Appellant, Kamala Singh (Criminal Appeal (SJ)
No.33 of 2009), appellants Pati Ram Singh, Budhi Ram Singh,
Lalan Singh (Criminal Appeal (SJ) No. 79 of 2009) have been
found guilty for an offence punishable under Section 323/34 of
the IPC and each one has been sentenced to undergo S.I. for one
year vide judgment of conviction and order of sentence dated
22.12.2008 passed by FTC-III, Buxar in Sessions Trial no.8 of
1989/109 of 2003, on account thereof heard analogously and are
being decided by a common judgment.



2. Learned counsel for the appellants, during course of submission has submitted that it happens to be an unfortunate incidence for the family on account of their indulgence in instant litigation wherein father as well as step brother and his family members have been arrayed as an accused by the prosecution party over domestic feud more particularly, for the cutting of fire wood from a land which was not partitioned amongst them. Furthermore, it has also been submitted that father Hira Lal has already dead and the present litigation survives amongst the step brothers and his family. It has also been submitted that there happens to be no disclosure at the end of the prosecution that mango tree was cut away and in the likewise manner, it has also been submitted that occurrence is of the year 1987 consuming thirty-one years and during midst thereof, appellants have faced ordeal of trial. It has also been submitted that occurrence was not at all premeditated rather an out come of spur of moment. Also submitted that there happens to be no criminal antecedent nor they have fought with the prosecution party at an earlier occasion or subsequent thereto. In the aforesaid background, having been consisted for an offence punishable under Section 323/34 of the IPC and further considering the age of the appellants which was estimated on the date of recording of statement i.e. on 13.05.2008, appellant Pati Ram Singh now attains the age of 71 years while Budhi Ram Singh 73 years, Lalan Singh 35 years and Kamla Singh 60 years do attract application of Probation of Offenders Act whereupon, they be allowed to let off on due admonition.

3. The learned Additional Public Prosecutor opposed



the submission but, fairly concedes so far genesis of occurrence is concerned, as well as dispute arose, amongst the parties on domestic affair coupled with age of the respective appellants of the present stage.

4. After hearing the respective learned counsels as well as going through the lower court record, it is manifest that the submissions whatever been at the end of the appellants is found duly recognizable. Accordingly, maintaining the conviction, the sentence so inflicted by the learned lower court is modified in a way that appellants be allowed to let off on due admonition as per Section 3 of the Probation of Offenders Act and for that, all the appellants will present themselves before the learned lower court on 05.10.2018 positively. Till then, the privilege of bail is extended. If appellants or any of the appellant would fail to appear on the aforesaid specified date, then in that circumstance, the learned lower court will be at liberty to proceed against the absentee appellant in accordance with law as the privilege of bail would automatically ceased to survive.

5. In terms thereof, instant appeal is disposed of.

(Aditya Kumar Trivedi, J.)

Prakash Narayan

AFR/NAFR	A.F.R.
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