

IN THE HIGH COURT OF JUDICATURE AT PATNA**Criminal Appeal (SJ) No.255 of 2015**

Arising Out of PS.Case No. -187 Year- 2009 Thana -MUFFASIL District- AURANGABAD

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1. Jalendra Singh @ Jalendar Singh, son of Late Bishundeo Singh
 2. Amendra Singh @ Amendra Kumar Singh, son of Late Bishundeo Singh
 3. Nitish Kumar, son of Ghansen Singh
 4. Abhinah Singh @ Abhinas Kumar Singh, son of Raja Singh
 5. Raja Singh, son of Late Chandradip Singh
 6. Madan Singh, son of Late Chandradip Singh
 7. Ghansen Singh @ Dhansen Singh, son of Late Chandradip Singh
 8. Ram Singh @ Kariman Singh, son of Late Chandradip Singh, all of resident of village-Poiwma, P.S. Muffasil, District – Aurangabad.

.... Appellant/s

Versus

The State of Bihar

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Sanjay Kumar-Advocate
Mr. Rajeshwar Singh-Advocate
For the Respondent/s : Mr. Sujit Kumar Singh-A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL JUDGMENT

Date: 15-02-2018

Heard learned counsel for the appellants as well as
learned Additional Public Prosecutor.

2. Learned counsel for the appellants has submitted that
the occurrence is of the Year 2009. It has also been submitted that
from the evidence of the PWs, it is evident that both the parties are
Pattidars and the germane of instant occurrence as admitted by the
prosecution witnesses, happens to be partition. Furthermore, it has
also been submitted that appellants have got no criminal antecedent.
In the aforesaid background, it has been submitted that the sentence so



inflicted by the learned lower Court happens to be completely unwarranted in the background of the fact that only Jalendra Singh @ Jalendar Singh and Amendra Singh @ Amrendra Kumar Singh have been arrayed as an assailant though with some sort of inconsistency as per finding recorded by the Dr. Kumar Mahendra Pratap (PW-7). So, it has been submitted on behalf of learned counsel for the appellants that the appellants be given privilege of Probation of Offenders Act.

3. Learned Additional Public Prosecutor also endorsed the view as shown by the learned counsel for the appellants and submitted that from the evidence of witnesses, more particularly the informant himself (examination-in-chief) that both the parties carry on land dispute.

4. That being so, forbidding myself to enter into in depth scrutiny of the material available on the record, maintaining the conviction recorded by the learned lower Court under Sections 341/34, 323/34 and 325/34 of the I.P.C., the sentences having recorded therefor, is hereby erased and is substituted directing each of the appellants to execute bond of Rs. Five Thousand (Rs.5,000/-) with one surety to be effected for a year. During midst thereof, to maintain peace and harmony otherwise, will present themselves before the Court to suffer the sentence, within four weeks as provided under Section 4 of the Probation of Offenders Act and during midst thereof,



the bail being enjoyed by the appellants confirmed by this Court is hereby extended, failing which the learned lower Court will be at liberty to proceed against them in accordance with law as, the sentence being inflicted, will replace the same.

5. In terms of aforesaid finding, instant appeal is disposed of.

(Aditya Kumar Trivedi, J)

Vikash/-

AFR/NAFR	A.F.R.
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