

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1207 of 2016

Arising Out of PS. Case No.-14 Year-2006 Thana- KANTI District- Muzaffarpur

Harendra Paswan, Son of Sheodhar Paswan, resident of Village- Bishunpur
Sumer, P.S. Kanti, District- Muzaffarpur.

... .. Appellant

Versus

The State Of Bihar

... .. Respondent

Appearance :

For the Appellant/s	:	Mr.Arun Kumar, Advocate Mr. Nirmal Kumar Sinha, Advocate
For the Respondent/s	:	Smt. Abha Singh, APP

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL JUDGMENT

Date : 12-07-2022

The present criminal appeal has been filed against the judgment of conviction and order of sentence dated 05.05.2016 passed by learned 8th Additional District and Sessions Judge, Muzaffarpur in Sessions Trial No. 100 of 2007 (arising out of Kanti P.S. Case No. 14 of 2006), whereby the Trial Court has acquitted the appellant of the charges under section 307/34 of the Indian Penal Code and has convicted the appellant for the offences under section 323, 341 and 447 of the Indian Penal Code and has sentenced the appellant to undergo simple



imprisonment for one month under section 341 of the Indian Penal Code, to undergo simple imprisonment for three months under section 447 of the Indian Penal Code and to undergo simple imprisonment for one year under section 323 of the Indian Penal Code with fine of Rs. 1,000/- (one thousand). All the sentences have been directed to run concurrently.

2. The case of the prosecution was registered on 17.01.2006 by police officer in Sadar Hospital at bed No. 12 where the informant Surendra Paswan narrated the fardbeyan stating that on 06.01.2006 at 7.30 hrs while the informant was sitting at his doorstep, all the accused persons came and threatened him to withdraw the case registered by him else he would be killed. The informant protested as a result of which co-accused Nirmala Devi caught hold of him and Harendra Paswan another co-accused assaulted him by garansa. Thereafter, the son and wife of the informant came to rescue him but they were also assaulted by the accused persons. On the basis of fardbeyan, Kanti P.S. Case No. 14 of 2006 was registered under sections 323, 447, 341, 324 and 307/34 of the Indian Penal Code.



3. After completion of investigation, the police submitted charge-sheet under sections 341 and 323/34 of the Indian Penal Code but the learned jurisdictional Magistrate took cognizance of the offences under Section 307 of the Indian Penal Code and committed the case to the Court of Sessions for trial. Charges were framed against the appellant under section 323, 341, 447, 307/34 of the Indian Penal Code. The appellant pleaded not guilty and claimed to be tried.

4. During the trial, the prosecution examined as many as eight (08) witnesses, namely, P.W.-1 Nathuni Ram, P.W.-2 Indal Paswan who is son of the informant, P.W.-3 Mamta Devi is daughter of informant, P.W.-4 Chinta Devi is wife of the informant, P.W.-5 Surendra Paswan is informant, P.W.-6 Kiran Devi, P.W.-7 Dr. Bipin Bihari Ray is doctor and P.W.-8 Guddu Kumar. The defence has not examined any witness in support of its case.

5. The statement of the appellant has been recorded under section 313 of Cr.P.C. in which the appellant pleaded not guilty. The Trial Court, on the basis of



materials on record convicted the appellant in the manner stated above.

6. Heard learned counsel for the appellant and learned A.P.P. for the State.

7. Learned counsel for the appellant submits that the Trial Court has not properly examined the evidence on record and the prosecution has failed to establish the place of occurrence, manner of occurrence and the genesis of occurrence beyond reasonable doubt. It is submitted on behalf of the appellant that the witnesses examined in the case are all interested witnesses and, therefore, the statements made by them are not trustworthy and reliable. Learned counsel contends that the Trial Court has also failed to consider the material documents filed on behalf of the appellant. It is the case of prosecution that the appellant and the informant are brothers and there is land dispute in the family and a counter case has been filed by the appellant. Learned counsel for the appellant lastly submits that the appellant has already undergone custody of about nine months i.e. 4 months 21 days during the trial and 4 months 9 days after conviction.



8. Learned APP for the State states that the prosecution has been able to prove the case beyond reasonable doubt and as such the judgment of the Trial Court convicting the appellant and directing him to undergo sentence and paying fine does not require any interference.

9. Having heard learned counsel for the parties and after perusal of the materials available on record, I find that the Trial Court has rightly arrived at a conclusion to convict the appellant under sections 323, 447 and 341 of the Indian Penal Code. However, in my view, the ends of justice would be subserved if the period of sentence is reduced to the period already undergone by the appellant. Since the appellant is on bail, he is discharged from the liabilities of his bail bonds.

10. The appeal is, accordingly, disposed of.

(Sudhir Singh, J)

Pankaj/-

AFR/NAFR	NAFR
CAV DATE	
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