

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.215 of 2019

Arising Out of PS. Case No.-73 Year-1997 Thana- DHANARUA District- Patna

1. SHYAM BABU RAM AND ORS Son of Late Dev Lal Ram Resident of Village- Awadheshpur, Chakjulah, P.S.- Dhanarua, District- Patna.
2. Ganauri Ram Son of Moti Ram Resident of Village- Awadheshpur, Chakjulah, P.S.- Dhanarua, District- Patna
3. Ram Ji Ram Son of Moti Ram Resident of Village- Awadheshpur, Chakjulah, P.S.- Dhanarua, District- Patna
4. Bechan Ram Son of Sundar Ram Resident of Village- Awadheshpur, Chakjulah, P.S.- Dhanarua, District- Patna
5. Shailendra Ram Son of Late Dev Lal Ram Resident of Village- Awadheshpur, Chakjulah, P.S.- Dhanarua, District- Patna

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Sinha, Adv.
For the Respondent/s : Mr. Dr. Mrityunjaya Kr. Gautam, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 14-12-2023 Heard learned Advocate for the petitioners as well as

learned APP for the State.

2. The instant revision is directed against an order dated 9th January, 2019, passed by the learned Fast Track Court-1, Patna in Sessions Trial No. 1189 of 1997, Trial No. 271 of 2017, in connection with Dhanarua P.S. Case No. 73 of 1997.

3. The learned trial Judge, on careful consideration of evidence and appreciating the arguments advanced by the learned Advocate, held the accused persons/petitioners guilty for



committing offence under Section 323 of the I.P.C. In respect of offence under Sections 341 and 307 of the I.P.C. the accused were acquitted. For the offence under Section 323 of the I.P.C., the accused persons/petitioners were sentenced to simple imprisonment for three months. Since, the impugned order is not appealable, the accused persons have challenged the impugned order in revision.

4. I have heard the learned Advocate for the petitioners. It is submitted by the learned Advocate for the petitioners that the allegation made against the petitioners were omnibus and general.

5. According to defecto complainant, six persons assaulted him and his family members. Amongst the six persons, who actually assaulted the injured, had not been brought on evidence. It is very natural that, if a persons is assaulted by six assailants, there will be multiple injuries on their persons, but the prosecution failed to produce any medical evidence during the trial of the case.

6. I have carefully gone through the entire evidence on record. Practically the witnesses are consistent about the role of the accused persons in causing simple hurt to the informant and his family members. It is immaterial that the injured persons



were not examined by the Doctor has not proved a charge under Section 323 of the I.P.C., medical report is not absolutely necessary.

7. Considering such aspect of the matter, this Court is in conformity with the final decision of conviction of the accused persons under Section 323 of the I.P.C.

8. With regard to sentence, the court below failed to consider that the incident took place in 1997, the Judgment was delivered on 9th January, 2019, therefore, the accused persons suffered mental agony and stress for having a criminal case on their head for about 22 years.

9. Considering such aspect of the matter and in view of the fact that the dispute is trivial in nature, this Court is of the opinion that in place of sentence of imprisonment, sentence of fine would have been just and appropriate punishment for the petitioners. Therefore, the impugned order with regard to sentence and punishment is modified.

10. The petitioners are directed to pay a sum of Rs.5,00/- each for committing offence under Section 323 of the I.P.C. The petitioners shall make payment of fine amount within a period of four weeks from the date of communication of this order.



11. With the above order, the instant criminal revision
is disposed of.

(Bibek Chaudhuri, J)

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