

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.186 of 2024

Arising Out of PS. Case No.-227 Year-2014 Thana- GAIGHAT District- Muzaffarpur

Urmila Devi, Wife of Tapeswar Rai, Resident of Village - Jaganiya, P.S. -
Gaighat (Beniyabad), District – Muzaffarpur.

... .. Appellant

Versus

1. The State of Bihar
2. Ram Ratan Rai, Son of Late Veer Rai, Resident of Village - Jaganiya, P.S. -
Gaighat, District - Gaya
3. Ramesh Rai, Son of Ram Jatan Rai, Resident of Village - Jaganiya, P.S. -
Gaighat, District - Gaya
4. Naresh Rai, Son of Ram Jatan Rai, Resident of Village - Jaganiya, P.S. -
Gaighat, District - Gaya
5. Ranjit Rai, Son of Ram Jatan Rai, Resident of Village - Jaganiya, P.S. -
Gaighat, District - Gaya
6. Sawan Rai, Son of Ram Jatan Rai, Resident of Village - Jaganiya, P.S. -
Gaighat, District - Gaya
7. Sanjit Rai, Son of Ram Jatan Rai, Resident of Village - Jaganiya, P.S. -
Gaighat, District - Gaya

... .. Respondents

Appearance :

For the Appellant	:	Mr. Pradhan Murli Manohar Prasad, Advocate
For the State	:	Ms. Shashi Bala Verma, APP
For the Respondents	:	Mr. Surendra Kumar Singh, Advocate Mr. Ganesh Prasad Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

6 12-09-2024 Heard Mr. Pradhan Murli Manohar Prasad, learned
counsel for the appellant and Mr. Surendra Kumar Singh, learned
counsel assisted by Mr. Ganesh Prasad Singh, learned counsel for the
respondent nos. 3 and 4 on the point of sentence.

2. Learned counsel for respondent nos. 3 and 4 submits
that these respondents are labourers and they are aged about 45-46



years. They have also got some family obligations and considering these aspects of the matter, they may be ordered to be released giving them benefit of Section 360 of the Code of Criminal Procedure (in short 'CrPC') read with Section 4 of the Probation of Offenders Act, 1958 (hereinafter referred to as 'the Act of 1958').

3. On the other hand, learned counsel for the appellant submits that respondent nos. 3 and 4 have been convicted for the offences punishable under Sections 323 and 325 of the Indian Penal Code (in short 'IPC'). This Court has noticed the injury reports (Exhibit '5' and Exhibit '6') which have been proved by the doctors who have been examined as PW-5 and PW-6. Respondent nos. 3 and 4 have caused grievous injuries to the husband of the appellant. He was assaulted by rod and lathi causing fracture on his hand and leg. It is submitted that one of the essential requirements of Section 4 of the Act of 1958 is that the circumstances of the case including the nature of the offence and the character of the offender are required to be considered. In this case, respondent nos. 3 and 4 assaulted the husband of the appellant who has deposed as a witness (PW-2) and had caused grievous injuries, therefore, the circumstances of the case and the nature of the offences are not such that it would be expedient in the interest of justice to invoke Section 4 of the Act of 1958. It is submitted that respondent nos. 3 and 4 be punished by imposing appropriate sentence and fine.

4. Having heard learned counsel for the appellant and



respondent nos. 3 and 4, we are of the view that it is not a fit case to invoke the power of this Court to release respondent nos. 3 and 4 giving them benefit of Section 4 of the Act of 1958. Considering the entire circumstances of the case, we are of the considered opinion that a sentence of three years rigorous imprisonment with a fine of Rs.20,000/- for the offence punishable under Section 325 IPC to each of them i.e. respondent nos. 3 and 4 would be appropriate and the same is awarded upon them and for the offence punishable under Section 323 IPC, we impose a sentence of six months. In default of payment of fine, respondent nos. 3 and 4 shall suffer an additional imprisonment of three months. Both the sentences shall run concurrently. The fine amount recovered from respondent nos. 3 and 4 shall go to the appellant. In terms of Section 357A CrPC, the District Legal Services Authority, Muzaffarpur shall decide the adequate quantum of compensation which may be provided to the appellant under the Victim Compensation Scheme.

5. At this stage, learned counsel for respondent nos. 3 and 4 has prayed for provisional bail in terms of Sub-Section (3) of Section 389 CrPC for a period of 30 days to allow respondent nos. 3 and 4 to present the appeal and obtain the order of the Appellate Court under Sub-Section (1) of Section 389 CrPC.

6. Since the respondent nos. 3 and 4 are not present in Court, they are directed to surrender in the court below within two weeks from today and furnish bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand Only) each with two sureties of the like



amount each to the satisfaction of learned Additional Sessions Judge-I, Muzaffarpur in connection with Sessions Trial No. 615 of 2015 arising out of Gaighat P.S. Case No. 227 of 2014. On submission of the bail bond with two sureties as prescribed hereinabove, the respondent nos. 3 and 4 shall remain on provisional bail for a period of 30 days to enable them to seek their remedy as may be advised to them in accordance with law.

7. If the respondent nos. 3 and 4 do not surrender and submit their bail bonds in the learned trial court within the given period, the trial court shall take appropriate coercive action to procure their custody.

8. This order shall form part of the judgment delivered by this Court on 10.09.2024.

9. This appeal stands allowed to the extent indicated in the judgment and order.

(Rajeev Ranjan Prasad, J)

(Shailendra Singh, J)

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