

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.469 of 2007

1. Mewa Ram, son of late Prasadi RAm
2. Yadu Ram, s/o Mewa Ram
3. Brij Nandan Ram, s/o Mewa Ram
4. Krishna Ram, s/o Mewa Ram
5. Mithlesh Ram, s/o Mewa Ram
6. Madan Yadav, s/o Late Ramji Yadav
7. Binda Yadav, s/o Sri Biro Yadav
All residents of village-Wajitpur, P.S. Kashichak, Distt. Nawadah

... .. Appellant/s

Versus

STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Gauri Shankar Prasad, Adv.
For the Respondent/s : Mr.Amita Kumari Singh, APP

CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL JUDGMENT

Date : 23-02-2024

Heard Mr. Gauri Shankar Prasad, learned counsel
appearing for the appellant as well as Ms. Amita Kumari
Singh, learned Additional Public Prosecutor for the State.

2. This appeal has been preferred by the appellant
against the judgment and order of conviction dated
11.04.2007 passed by Sri Anand Deo Sharma, Additional
Sessions Judge, F.T.C.-V, Nawadah in S. Tr. No. 225/95 and
61/2003 convicting the appellants for the offence
punishable under Sections 147, 324 read with 149 of the
Indian Penal Code and in place of sentencing them, ordered
to execute Bond of Rs. 5,000/- with two sureties of like



amount for maintaining peace and tranquility for one and half year under Section 4 of the Probation of Offenders Act.

3. The prosecution case in brief is that, the informant, namely, Ata karim (P.W.-2) gave a written report on 15.3.1999 before Kashichak Police Station stating therein that on 15.03.1999 a proceeding u/s 144 Cr.P.C. was going on between the informant and appellants for a piece of land. The appellants after constructing 'chulha', they were doing new work on the same day. At about 9:00 A.M., uncle of the informant, namely Md. Khalid (P.W. -1) restrained the appellants not to do any work as Section 144 Cr.P.C. has been promulgated on the land in question. Upon this, accused Madan Yadav and Binda Yadav ordered to kill the informant and his uncle. On getting such order, appellant no. 1 assaulted with *saif* on the head of the uncle (P.W..1) due to which he sustained head injury and become unconscious. Further case of prosecution is that, all the appellants further assaulted to informant by means of lathi and this occurrence is witnessed by Sri Yadav and Lakho Paswan (P.W.-3).

4. On the basis of written report given by P.W.-2,



Kashichak P.S. Case No. 13 of 1999 was registered against the appellants. After completing the investigation, police submitted chargesheet. On the basis of evidence during investigation, cognizance was taken and the case was committed to the court of Session for trial and disposal.

7. In this appeal, point for consideration is whether the prosecution is able to prove the charges levelled against the appellants beyond the shadow of reasonable doubt or not.

8. Notably, against the appellant Mewa Ram, charge was framed under Sections 148 and 307 of the Indian Penal Code and against other appellants, charge was framed under Sections 147 and 323, 307 and 149 of the Indian Penal Code.

9. To substantiate the charge leveled against the appellants, altogether six witnesses have been examined by the prosecution as P.W.-1 Md. Khalid (uncle of the informant), P.W.-2 Ata Karim (informant), P.W.-3 Lalo Paswan (laborer of the informant) and P.W.-4 (doctor), P.W.-5 Awadh Prasad and P.W.-6 Brajesh Sahay.



10. Learned counsel appearing on behalf of the appellants argued that evidence of witnesses suffered from serious infirmities and contradictions, which makes their case highly doubtful, totally unreasonable and untrustworthy. P.W.-4, doctor has opined that such type of injury can be caused by fall. P.W. 3 is laborer of the informant, who is interested witness and his evidence is not trustworthy. In this case, Investigation Officer of the case was not examined and due to his non-examination, the defense caused prejudiced as the contradictions and place of occurrence could not be verified properly. It is desirable that prosecution has to examine the Investigation Officer. Defense has lost the opportunity to raise the question in respect of contradictions elicited in the prosecution evidence.

11. Learned APP appearing for the state argued that the impugned judgment in question is based on cogent and consistent evidence, which is adduced by the prosecution witnesses. Doctor proved the injury report of P.W.-1 which is exhibited as ext.-2, who sustained incised wound caused by Mewa Ram and all other accused persons also caused the



occurrence with common object. Learned trial court has rightly convicted the appellants by relying upon the evidence brought on record by the prosecution during trial. Therefore, the judgment and order assailed in this appeal requires no interference and appeal is liable to be dismissed.

12. I have gone through the entire prosecution evidence, documents, exhibits, defense evidence, medical report in respect of injury of P.W.-1, which is proved by P.W.-4 (doctor). P.W.-2 (informant) supported the prosecution case. From perusal of evidence of all the witnesses along with P.W.-2 (informant) and P.W. 1, both are injured, proved the prosecution case in respect of manner of occurrence, place of occurrence and time of occurrence. In this case, it is apparent that I.O., who had conducted the investigation, was not examined but all the witnesses proved the prosecution case and due to his non-examination, the defense caused prejudice. The doctor proved the medical report of P.W.-1, which is exhibited as Ext.-2.

13. After scrutinizing all the evidences, which are available on record and the impugned judgment of



conviction, there is no need of interference in the said judgment. The impugned judgment is delivered on the basis of cogent and consistent evidence and the trial court had rightly convicted all the appellants under Sections 147 and 324 read with 149 of the Indian Penal Code. This Court does not find any infirmity in the order impugned. Being the first offence committed by the appellants, trial court released all the appellants after giving them the benefit of Section 4 of Probation of Offenders Act. I find no reason to disbelieve the judgment of conviction passed by the trial court.

14. Accordingly, the instant appeal is hereby dismissed.

(Sunil Kumar Panwar, J)

sushma/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	26.2.2024
Transmission Date	26.2.2024.

