

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.777 of 2006

1. Sri Mahto son of Aklu Mahto
2. Krishna Yadav son of Jebhi Yadav
3. Bishundeo Yadav son of Sri Yadav
4. Ramji Mahto son of Aklu Mahto
5. Juna Mahto@ Juna Yadav son of Ram Ji Mahto
6. Manoj Yadav son of Ramji Mahto

All are resident of village Gosai Bigha, Police Station- Akbarpur, District- Nawada

... .. Appellant/s

Versus

State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Niraj Kumar Mr. Jitendra Kr. Singh
For the Respondent/s	:	Mrs. Anita Kumari Singh, APP

CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL JUDGMENT

Date : 15-04-2024

Heard Mr. Niraj Kumar, learned counsel appearing for the appellant as well as Mrs Anita Kumari Singh, learned Additional Public Prosecutor for the State.

2. This appeal has been preferred by the appellants against the judgment of conviction and order of sentence dated 27.07.2006 passed by Additional District and Sessions Judge, Fast Track Court, V Nawada in Sessions Trial No. 60/99 and 75/2003 arising out of Akbarpur Police Station Case No. 99 of 1996, convicting the appellants for the offence punishable under Section 325 of the Indian Penal Code. On the point of sentence, trial court instead of ordering them for



imprisonment, giving them the benefit of Section 4 of Probation of Offenders Act, they have been released with a direction to execute Bonds of Rs. 5,000/- on each of them for maintaining peace and tranquility for one and half year.

3. The prosecution case is that the informant Suraj Manjhi (P.W.-6) gave his fardebyan on 18.07.1996 at 7. A.M. in Nawada Hospital alleging therein that on 17.07.1996, while he was constructing his house at about 12 PM noon, in the meantime, all the accused persons/appellants came there and said to the informant as to why he is constructing the house. The informant told them that he is constructing house over his ancestral land upon this all the accused persons went away after threatening and abusing. It is further alleged that the informant and his sons Jhapsi Manjhi(P.W.-1) and one Karkhu Ravidas(P.W.-3) were sleeping outside the under-constructed house. At about 2 A.M. at night informant heard sound of firing and explosion of bomb and saw that all the accused persons were using bomb and firearm, were demolishing the house of the informant which was under construction. After that, appellant No.2, namely, Krishna Yadav fired from his rifle causing injury to Karkhu Ravidas(informant's son) in his left ankle. Appellant No.3, namely, Bishundeo Yadav fired



upon the informant's son namely, Jhapsi Manjhi(P.W.-1) causing injury in his right thigh. Appellant No.4., namely, Ramji Yadav fired from his rifle causing injury to Jhapsi Manjhi in his right palm. Thereafter, the informant raised hulla upon which Manoj Yadav hurled bomb on the roof of the house of Manoj Sao(P.W.-2) causing injury to his testicle. Thereafter, they fled from there after committing crime.

4. On the basis of written report given by informant(P.W.-6), Akbarpur police Station Case No. 99 of 1996 was registered against the accused persons.

5. After completing the investigation, police submitted chargesheet under Sections 147, 148, 149, 324, 307, 308, 427 and 326 of the IPC, Section 27 of the Arms Act, Sections 3, 4 and 5 of the Explosive Substance Act and Section 3(x) of the Civil Protection Right Act against the appellants. On the basis of evidence during investigation, cognizance was taken by learned Chief Judicial Magistrate, Nawada and the case was committed to the court of Session for trial and disposal.

6. Charge has been framed against the appellants. Trial court explained the charge to the accused(appellants) to which they pleaded not guilty and claimed to be tried.



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. To substantiate the charges leveled against the appellants, altogether seven witnesses were examined by the prosecution as P.W.-1 Jhpsi Manjhi, P.W.-2 Manoj Sah, P.W.-3 Karkhu Ravidas, P.W.-4 Suresh Ravidas, P.W.-5, Dr. Mukhtinath Singh (doctor), P.W.-6 Suraj Manjhi (informant) and P.W.-7 Investigating Officer.

9. P.W.-1(Jhpsi Manjhi), P.W.-2 Manoj Sah, P.W.-3(Karkhu Ravidas) and P.W.-4 (Suresh Ravidas) all have stated in their evidence that all the accused persons came and started abusing and threatening the informant(P.W-6). After that, they went from there and at night, they again came and were demolishing the house of the informant by using bomb and firearm. Appellant No.2 Krishna Yadav fired from his rifle causing injury to Karku Ravidas(P.W.-3). Appellant No.3 Bishundeo Yadav and appellant No.4 Ramji Yadav fired from their respective arms to Jhpsi Manjhi(P.W.-1) causing injury to him.



Further, appellant No. 6 Manoj Yadav hurled bomb on the house of the Manoj Sah(P.W.-2) causing injury to his testicle.

10. P.W.-5 (doctor) who examined the injured, namely, Manoj Sah and found lacerated wounds on the testicle. On the same day, he examined Jhapsi Manjhi and Karkhu Ravidas and found lacerated wound on their right thigh and left foot respectively.

11. P.W.-6 Suraj Manjhi (informant) deposed in his evidence that these accused persons/appellants came at his house and told him why he is constructing the house upon which he said that I am constructing the house on his own land. Thereafter, they abused and threatened him and went from there. After that, at night informant's son, namely, Jhapsi Manjhi (P.W.-1) and Karkhu Ravidas(P.W.-3) were sleeping in that under-constructed house. Suddenly at about 2.A.M. at night, they woke up from the sound of firing. Then, they saw that all the accused persons along with some unknown persons were demolishing the house of the informant, upon which they made hulla and appellant No.2 Krishna Yadav fired from his rifle to Karkhu



Ravidas(P.W.-3) on his left leg. Appellant No.3 namely, Bishundeo Yadav and appellant No.4, namely, Ramji Mahto fired from their respective arms upon Jhapsi Manjhi (P.W.-1) on his right thigh and palm. Appellant No. 6, namely, Manoj Yadav hurled bomb on the roof of the Manoj Sah (P.W.-2) who was standing there and sustained injury on his testicle. Informant raised alarm, then all the accused persons fled from there.

12. P.W.-7 I.O of this case has also been examined. He deposed that he has not investigated the case.

13. Learned counsel appearing on behalf of the appellants submitted that judgment of conviction and order of sentence are not based on consistent and cogent evidence. Learned trial Court has wrongly found the appellants guilty and convicted them under Section 325 of the IPC. The trial Court has failed to appreciate the doctor's evidence to hold that the appellants have not committed any offence and they are entitled to get the benefits of doubt. The Judgment passed by the learned trial Court is based on the surmises and conjectures and fit to be set aside. It is further submitted that the Doctor(P.W.-5) in



his evidence said that all the injured came for treatment on 18.07.1996 at 2.25. a.m. while all the injured in their evidence said that they were came to Nawada for treatment at about 6.a.m. on 18.07.1996. Learned trial Court also failed to appreciate the standing dispute of land between the parties.

14. Learned APP appearing for the state has argued that the impugned judgment of conviction is fit and proper and based on cogent and consistent evidence, which is adduced by the prosecution witnesses. The judgment of conviction challenged by the appellants is fit to be upheld and sustainable. This appeal requires no interference and is liable to be dismissed.

15. I have gone through the entire prosecution oral and documentary evidence which adduced during the trial by the prosecution. Altogether seven witnesses have been adduced on behalf of the prosecution. P.W.-1 Jhansi Manjhi, P.W.-2 Manoj Sah, P.W.-3 Karkhu Ravidas, they all are injured in this case. They all are firmly stand in respect of manner of occurrence, place of occurrence and time of occurrence. They specifically deposed in their evidence in respect of prosecution



case and stated that the appellants assaulted to them by means of respective arms. It is also deposed by them that appellant No.2 Krishna Yadav fired from his country made rifle upon Karkhu Ravidas due to which he sustained injury on left leg. Appellant No.3 Bishundeo opened fire by country made gun due to which witness of the injured Jhansi Manjhi sustained injury on right thigh and appellant No.4 Ramji Mahto opened fire by his rifle which inflicted to Jhansi Manjhi and sustained injury on right hand and appellant No.6 Manoj Yadav hurled bomb upon Manoj Sah due to which he sustained injury on his testicle. The evidence of injured witnesses corroborated by the Doctor, namely, Mukhtinath Singh(P.W.-5). The doctor found the lacerated injuries on the person of injured witnesses. In the evidence of prosecution witnesses, some minor contradictions and discrepancies have been found but these discrepancies and contradictions could not discredit the prosecution evidence.

16. On behalf of the defense, all witnesses subjected to lengthy cross-examination but nothing major has surfaced to discredit the prosecution evidence.

17. After scrutinizing all the evidence, 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 Section 325 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.

18. Accordingly, the instant appeal is hereby dismissed.

(Sunil Kumar Panwar, J)

Shubham/-

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