

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1164 of 2019

Arising Out of PS. Case No.-1375 Year-2000 Thana- PATNA COMPLAINT CASE District-
Patna

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Hareesh Jalan, Son of Late Murli Manohar Jalan Resident of Quila House,
Mohalla-Quila Road, Patna City, P.S.-Chock, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bal Manohar Jalan Son of Late Hilalal Jalan Resident of Quila House, P.S.-
Chowk, District-Patna.
3. Aditya Jalan Son of Bal Manohar Jalan Resident of Quila House, P.S.-
Chowk, District-Patna.
4. Nawal Sharma Son of Late Radhe Shyam Sharma Resident of Heera Nand
Sah Lane, Patna City, P.S.-Chowk, District-Patna.
5. Monu Sharma Son of Nawal Sharma Resident of Heera Nand Sah Lane,
Patna City, P.S.-Chowk, District-Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pankaj Kumar Singh
For the Respondent/s : Mr.Bal Mukund Prasad Sinha

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

- 2 22-01-2024 1. In Complaint Case No. 1375(C) of 2000 (T.R. No. 1243 of 2010), 4 numbers of accused persons were held guilty for committing offence under Section 323/384 of the IPC and for the offence under Section 323 of the IPC, the convicts were sentenced to imprisonment for 1 year and also to pay fine of Rs. 5,000/-, in default, simple imprisonment for 15 days with regard to the offence under Section 384 of the IPC. The accused persons were sentenced to suffer rigorous imprisonment for 3 years and fine of Rs. 1,000/-, in default, further simple



imprisonment for 1 month. The said order was passed by the learned Judicial Magistrate, 1st Class, Patna.

2. The convicts preferred an appeal against the aforesaid order of conviction and sentence before the learned Sessions Judge, Patna, which was registered as Criminal Appeal No. 277 of 2011. The learned Sessions Judge, Patna by passing judgment dated 15th of July 2019, affirmed the order of conviction and sentence for the offence punishable under Section 323 of the IPC against Appellant No. 1 Bal Manohar Jalan and remaining three accused persons were acquitted of the charge under Section 323 of the IPC. The learned Sessions Judge, however, set aside the order of conviction and sentence for the offence under Section 384 of the IPC and the accused persons were acquitted of the charge under Section 384 of the IPC.

3. All the accused persons preferred the instant Revision, challenging the order passed by the learned Sessions Judge, Patna in Criminal Appeal No. 277 of 2011.

4. In the order impugned, the order of conviction against Appellant No. 1, Bal Manohar Jalan was affirmed. On the point of sentence, it was observed by the learned Sessions Judge, Patna that on the date of delivery of judgment, the



Appellant No. 1 was aged about 65 years. It is also pointed out by him that several cases are pending between the Appellant No. 1 and 2 and the owner of Harish Properties, i.e., Harish Jalan, where the complainant used to work as caretaker.

5. Having considered the facts and circumstances, the learned Sessions Judge, Patna found that the Appellant No. 1 is entitled to the benefit of Section 4 of the Probation of Offenders Act. Therefore, instead of sentencing the accused/Appellant No. 1, he was released on probation on furnishing a personal bond of 1 year to the tune of Rs. 10,000/- with further direction to maintain peace and not to cause any breach of peace during the said period of 1 year for which he was in possession.

6. Simultaneously, the learned Sessions Judge invoked Section 5 of the Probation of Offenders Act and directed Appellant No. 1 to pay a sum of Rs. 20,000/- to the injured/complainant as compensation under the Probation of Offenders Act for loss or injury caused by commission of offence within 1 month from the date of order, failing which such amount shall be recovered as fine under the provision of the Code of Criminal Procedure.

7. The owner of Harish Properties, namely, Harish Jalan has preferred the instant Revision, challenging legality and



propriety of the judgement and order passed by the learned Appellate Court in Criminal Appeal No. 277 of 2011.

8. I have carefully perused the judgement passed by the learned Judicial Magistrate in Complaint Case No. 1375(C) of 2000 and the learned Sessions Judge, Patna in Criminal Appeal No. 277 of 2011.

9. The learned Advocate for the petitioner submits that the Appellate Court while considering the evidence of the complainant recorded that the accused Bal Monhar Jalan assaulted the complainant with the help of the butt of a rifle. The Medical Officer who examined the complainant, on the contrary, found as many as four injuries on the body of the complainant. The injuries were:-

(i) Frontal lacerated wound $\frac{1}{2}$ mm diameter on left side of the neck and one on the right side of the neck.

(ii) Swelling with few bruises on the front of the chest.

(iii) Swelling measuring about 1" x 1" x $\frac{1}{2}$ " with bruise on the right interior shoulder.

(iv) Lacerated wound measuring about 1" x $\frac{1}{2}$ " x $\frac{1}{8}$ " on the right elbow.

10. It is submitted by the learned Advocate for the



petitioner that when the complainant described only one injury by the butt of the rifle, prosecution failed to prove how other injuries appeared in the person of the complainant. In view of several injuries found in the person of the complainant, it is presumed that he was assaulted not by a single person but by more than one person. However, both the Trial Court as well as the Court of the Appeal failed to consider the said fact. The case of the complainant is that all the four accused persons committed criminal trespass into the shop under the name and style of Harish Properties and assaulted him. However, the learned Appellate Court acquitted accused nos. 2, 3 and 4. The learned Appellate Court did not cite any reason as to why the Opposite Party No. 2 was alone convicted for the same offence allegedly committed by all the accused persons.

11. Having heard the learned Advocate for the petitioner and on careful perusal of the impugned judgement, this Court finds that the learned Appellate Court on appreciation of evidence found the Opposite Party No. 2 alone as the perpetrator of offence, who caused simple hurt to the complainant. Considering the age and antecedent of accused/Opposite Party No. 2, the learned Appellate Court released him on probation. At the same time, he was directed to



pay compensation of Rs. 20,000/- to the injured complainant.

12. The instant Revision has been filed by Harish Jalan, who is not a complainant. He was not present at the time of occurrence. When the instant Revision has not been filed by the complainant assailing the judgement and order of conviction and sentence passed against the Opposite Party No. 2, this Court is of the view that the instant Revision at the instance of the owner of the shop where the complainant used to wok as a care taker is not maintainable.

13. For the reasons stated above, the instant Revision is dismissed.

(Bibek Chaudhuri, J)

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