

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4484 of 2023

Arising Out of PS. Case No.-217 Year-2007 Thana- MADHEPUR District- Madhubani

1. RAM KUMAR VERMA Son of Late Kusum Lal Verma R/o vill - Bangaliya, P.S. - Manshi, distt. - Khagaria
2. Ashok Kumar Son of Mahendra Prasad Singh R/o vill - Bangaliya, P.S. - Manshi, distt. - Khagaria

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Arun Kumar, Adv.
For the Respondent/s : Mr. Binay Krishna, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

5 05-02-2025 Heard the parties.

2. The present appeal has been filed against:

the judgment & order dt. 03.08.23
passed by Sri Anil Kumar Mishra, Addl. Sessions
Judge-1st -cum- Special Judge, Madhubani in G.R.
No. 928/2007/CIS No.12466/14 arising out of
Madhepur (Lakhnaur) P.S Case No. 217/07, Dist.
Madhubani by which he has convicted the
appellant for an offence u/s 373, 341/323, 504/34
IPC and 3(1) (X) SC/ST Acts and 25 (1-B)A/26/35
of the Arms Act and released the appellant u/s 4(1)
of the Probation of Offender Act, direction that the



appellants shall maintain peace and further if the appellant could not maintain peace and commit further offence, they would be called for sentence.

The Probation Officer has also been directed to keep vigilance upon the appellant and he would submit report to the learned court after expiry of six month regularly.

3. As per the prosecution story, the allegation is that the informant after attending nature's call when arrived at the Panchayat Bhawan, saw a person coming towards his side. Further, allegation is that he inquired about his name and once came to know the identity, took caste name and alleged that he has forcibly cultivated the land, which followed assault. As the villagers arrived, he was saved. The further allegation is that he was also assaulted by butt of the pistol which later fell down in the ditch. This led to the FIR.

4. The usual investigation followed submission of charge-sheet, cognizance took place u/s 373, 341/323, 504/34 of the IPC and 3(1) (X) SC/ST Acts and 25 (1-B)A/26/35 of the Arms Act. This followed framing of charges on 16.07.2008 and as the appellant claimed their innocence, the trial.

5. Pursuant to the full-fledged trial, the Court came to



the conclusion that the case stands proved so far as the assault theory. However, naming the caste as also Arms Act, since the pistol was brought in a new bag and was not sealed, he was exonerated of the said charges.

6. The Court thereafter convicted under Section 341/323 of the IPC. However, instead of putting him back in judicial custody, gave him the benefit of **Section 4(i) of the Probation of Offender Act** with the direction that he shall maintain peace for next two years failing which the Court may take appropriate steps for sentencing punishment.

7. Aggrieved, the present appeal.

8. Learned counsel for the appellant submits that when he was exonerated of the charges under different Sections of SC/ST Act as also the Arms Act, the Court erred in convicting him under Section 341/323 of the IPC. Though he is diligently following the guidelines issued by the learned Trial Court, he wants his exoneration of the said charges.

9. Learned Spl. P.P. on the other hand has taken this Court to the Trial Court order, especially the statement of the **PW-7, Dr. Raj Kishore Chaudhary** who is a **Medical Officer** at **sub-Divisional Hospital, Jhanjharpur** and examined both **Rama Sadai** and **Lal Sadai**. He found injuries on the person of



both the injured persons above-named though it was found simple.

10. He submits that the Court had the said facts in mind while convicting and sentencing them.

11. Having gone through the facts of the case and the submissions of the parties, this Court has also perused the statement of the **PW-7, Dr. Raj Kishore Chaudhary** and according to him, on **11.09.2007**, while posted as **Medical Officer** at **Sub-Divisional Hospital, Jhanjharpur**, he had examined **Rama Sadai** and **Lal Sadai** and has detailed out the injuries which though were found to be simple in nature were on different parts of the body. In that backdrop, the Court concerned was fully justified in coming to the conclusion about the Section 341/323 of the IPC applicable on them which resulted into the conviction and sentence.

12. The said conclusion takes this Court to only one order, the appeal is bereft of merit, dismissed.

(Rajiv Roy, J)

Vijay Singh/-

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