

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2835 of 2018

Arising Out of PS. Case No.-23 Year-2003 Thana- HASANPUR District- Samastipur

Laxmi Paswan Son of Munnilal Paswan, resident of Village- Khuranda
Virpur, Police Station- Hasanpur, District- Samastipur.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Rajiv Ranjan, Advocate
For the Respondent/s : Mr. A.M.P. Mehta, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 15-07-2026

Heard learned counsel for the appellant and learned
A.P.P. for the State.

2. This appeal has been filed against the judgment of conviction and sentence dated 31.05.2018 passed by the learned Additional District & Sessions Judge, Rosera, District - Samastipur in Sessions Trial No. 440 of 2004, arising out of Hasanpur P.S. Case No. 23 of 2003, whereby and whereunder the appellant has been convicted for offence under Sections 447 & 324 of the Indian Penal Code and sentenced to undergo simple imprisonment for two months under Section 447 of the Indian Penal Code and further, the appellant was sentenced to undergo simple imprisonment for two years under Section 324 of the Indian Penal Code and Rs. 5000/- fine was directed to be paid to the



informant Laloo Mahto and in default of payment of fine, appellant was directed to further undergo simple imprisonment for three months. Both these sentences were directed to run concurrently.

3. The prosecution story, in brief, is that on 14.02.2003 at about 10 PM when informant was sitting in his ice-factory, in the meantime, this appellant along with two other co-accused came there and started abusing informant and on protest, on the order of co-accused Mahendra Paswan, this appellant inflicted Farsa blow, due to which, informant sustained cut injury on his left hand. It is further alleged that co-accused Shiv Narayan Paswan snatched Rs. 8,000/- from the pocket of informant. Thereafter, on noise of informant, Ashok Mahto (P.W.8), Baiju Mahto (P.W.6) and Bilat Mahto (P.W.7) came there and all the three accused persons fled away from there.

4. In this case, on the basis of the *Fardbeyan* of the informant, Hasanpur P.S. Case No. 23 of 2003 was registered for the offence punishable under Sections 447, 323, 324, 325, 504 and 379/34 of the Indian Penal Code and after completion of the investigating, charge-sheet was submitted and accordingly, the learned trial court took cognizance and after framing of charges



under Sections 447, 324 & 307 of the Indian Penal Code, committed the case to the Court of *Sessions*.

5. In this case, in order to bring home guilt of the accused persons, altogether fourteen witnesses were examined and six documents were exhibited on behalf of prosecution. Prosecution witnesses and exhibited documents are as follows:

<i>P.W.-1</i>	<i>Chhatanki Sada</i>
<i>P.W.-2</i>	<i>Debu Paswan</i>
<i>P.W.-3</i>	<i>Ram Prakash Paswan</i>
<i>P.W.-4</i>	<i>Jhula Sada</i>
<i>P.W.-5</i>	<i>Ram Swarup Mahto</i>
<i>P.W.-6</i>	<i>Baiju Mahto</i>
<i>P.W.-7</i>	<i>Bilat Mahto</i>
<i>P.W.-8</i>	<i>Ashok Mahto</i>
<i>P.W.-9</i>	<i>Laloo Mahto (Informant)</i>
<i>P.W.-10</i>	<i>Dr. Bidyasagar Yadav (Doctor)</i>
<i>P.W.-11</i>	<i>Jagdish Prasad</i>
<i>P.W.-12</i>	<i>Shiv Sankar Rai</i>
<i>P.W.-13</i>	<i>Sushil Prasad</i>
<i>P.W.-14</i>	<i>Ram Udgar Das</i>

<i>Exhibit 1</i>	<i>Signature of informant on Fardbeyan.</i>
<i>Exhibit 2</i>	<i>Injury report of informant</i>
<i>Exhibit 2/1</i>	<i>Injury report of informant of PMCH</i>
<i>Exhibit 3</i>	<i>Fardbeyan of informant</i>
<i>Exhibit 4</i>	<i>Formal F.I.R.</i>
<i>Exhibit 5</i>	<i>Endorsement on Fardbeyan</i>



6. During trial, out of aforesaid 14 prosecution witnesses, P.W.1 (Chhatanki Sada), P.W.2 (Debu Paswan), P.W.3 (Ram Prakash Mahto), P.W.4 (Jula Sada), P.W.7 (Bilat Mahto), and P.W.8 (Ashok Mahto) have not supported the prosecution case and have been declared hostile, though, as per F.I.R., P.Ws. 7 & 8 had come with P.W.6 at the place of occurrence after hearing noise of informant. Out of 14 prosecution witnesses, P.W.5, P.W.6 and P.W.9 (informant) are material witnesses and P.W.10 is doctor. P.W.5 (father of informant) has deposed in his evidence that he saw this appellant along with other two accused persons fleeing from the place of occurrence and his son (informant) was lying in injured condition. P.W.6 (brother of informant) has supported the prosecution version of informant. P.W.9 (informant) has supported his prosecution version in his deposition before the trial Court and alleged against this appellant that he assaulted with Farsa causing injury on his left hand. P.W.10 (Dr. Bidyasagar Yadav), who was posted as Medical Officer in Primary Health Centre, Hasanpur, examined the injured/informant and found following wounds on his body:

“(1) One incised wound of size 1 $\frac{3}{4}$ ”x $\frac{1}{4}$ ”x Muscle deep having extreme tenderness and red swelling of the surrounding area over upper outer part of left arm. Suspicion of injury to the



underlying bone. Hence patient was referred to PMCH for needful investigation and onward treatment on the request of his attendants. Report from Patna are awaited.

(2) One bruise and abrasion sized 1 ½”x ½” over lower middle of back.”

7. On going through the evidence of prosecution witnesses, particularly the evidence of P.W.5, P.W.6 and P.W.9, this Court finds that they are completely trustworthy and there is no reason to disbelieve their evidence. In view of such, the conviction of the appellant is upheld.

8. However, keeping in view the fact that the incident is of the year 2003 and appellant is more than 60 years of age and there is no complaint against this appellant after institution of the present F.I.R., I feel that end of justice would be met if the sentence is reduced to the period already undergone. The maximum sentence is of two years. In this case, the appellant has surrender in the Court below on 25.06.2003 and was enlarged on bail on 26.07.2003 and thus, has remained in custody during trial for one month.

9. Accordingly, the impugned judgment of conviction is upheld and the order of sentence dated 31.05.2018 passed by the



learned Additional District & Sessions Judge, Rosera, District - Samastipur in Sessions Trial No. 440 of 2004, arising out of Hasanpur P.S. Case No. 23 of 2003, is modified and reduced to the period, already undergone by the appellant. Since, sentence is modified, the fine of Rs. 5,000/-, which was imposed upon the appellant by the learned trial Court, is also waived.

10. In that view of the matter, appellant is discharged from the liability of his bail bond in connection with present case.

11. Accordingly, the appeal stands disposed of.

(Prabhat Kumar Singh, J.)

Anay

AFR/NAFR	AFR
CAV DATE	N/A
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