

Brahmdeo Rai Vs. State of Bihar

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Court : Patna

Decided On : Sep-10-1999

Judge : R.N. Sahay, J.

Appeal No. : Cr. Appl. (SJ) No. 194 of 1989

Appellant : Brahmdeo Rai

Respondent : State of Bihar

Judgement :

R.N. Sahay, J.

1. Heard appellant has been convicted under Sections 147, 323 and 435, I.P.C. and has been sentenced to undergo rigorous imprisonment for two years. Six other accused who were tried along with this appellant were convicted under Sections 147 and 323, I.P.C. They were released on probation.

2. The trial Court has rightly accepted the evidence that the appellant had set fire to Plane of the informant. There is, however, no evidence that the extent of damage by fire was Rs. 100/- or more. As there is sufficient evidence to show that mischief to the amount of Rs. 50/- has been caused by fire, the appellant can be convicted under Section 427, I.P.C.

3. The conviction of the appellant under Section 435, I.P.C. is set aside and he is convicted under Section 427, I.P.C. Benefit of probation has been given to other accused who were tried along with this appellant. Benefit of probation was not given to this appellant since he was convicted under Section 435, I.P.C.

4. The occurrence is of the year 1983. It would be appropriate and expedient that the appellant should be released on probation of good conduct under Section 360, I.P.C. instead of sentence him to imprisonment. The appellant is, therefore, directed to be released on probation of good conduct on his entering into a bond of Rs. 2.000/- with two sureties of the like amount for a period of six months, during which he shall be of good behaviour and maintain peace on the condition that he will have to appear in the Court to receive the sentence as and when called upon during this period. The appeal is accordingly disposed of.

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