

Domi Modi and ors. Vs. State of Bihar

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Court : Patna

Decided On : Dec-02-2002

Judge : S.N. Pathak, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 323 and 504

Appeal No. : Criminal Revision No. 301 of 2001

Appellant : Domi Modi and ors.

Respondent : State of Bihar

Advocate for Def. : Ali Mozaffar, APP

Advocate for Pet/Ap. : Md. Imteyaz Ahmad and Sulav Kumar Singh, Advs.

Judgement :

S.N. Pathak, J.

1. This revision is directed against the judgment dated 23-2-2001, passed by the Sessions Judge, Munger at Camp Court, Jamui, in Cr. Appeal No. 8/190 of 2000 confirming the order of conviction rendered by the trial Court in its judgment dated 4-12-2000 in G.R. Case No. 1218 of 1995 Tr. No. 514 of 2000. All the

revisionists were convicted under Sections 323 and 504 of the Indian Penal Code and were sentenced to undergo R.T. for one year each by the trial Court which

was reduced to six months by the appellate Court. The revisionists were further convicted under Sections 341 and 427 of the Indian Penal Code and they were sentenced to undergo R.I. for one month and six months respectively which was kept intact by the appellate Court.

2. It has been submitted by the revisionists lawyer that the alleged occurrence took place on a row over cutting of Palas tree allegedly standing over the informant's school premises. The revisionists were further claiming the aforesaid land as their raiyati land. The appellate Court at paragraph 13 stated that as the revisionists had failed to substantiate by producing any paper that, the alleged land belonged to them, the prosecution evidence had to be relied upon and hence it was established that the tree stood over a land belonging to the school. Whatever may be the case, it is apparent that the alleged occurrence originated over row of possession of a tree over the land of the school which the revisionists were claiming as their own. Even if the land over which the concerned tree stood and the revisionists were cutting the same in exercise of their own right and when there was a protest by the school teachers, the revisionists were not justified in assaulting or abusing the prosecution party. In any case, therefore, the prosecution had been able to prove the occurrence as alleged by the evidence on record. Two Courts below recorded concurrent findings of facts which in this revision cannot be reversed on the basis of certain minor irregularities in the prosecution case, it was next submitted by the revisionists lawyer that the revisionists were entitled to the benefit under Section 360 Cr. PC and the provisions of probation of Offenders Act since no previous conviction, of theirs was brought on the record of the case by the informant.

3. In view of the submissions and the circumstances on the record, I think a direction to execute bond under the Probation of Offenders Act will serve the cause of justice. Hence maintaining the order of conviction and by modifying the order of sentence to the effect that the revisionist, shall furnish the surety bond of Rs. 2000/- with one surety for maintaining peace for one year and to be a good behavior for the same period, this revision is dismissed. The revisionists shall surrender in the Court below within three months from the date of communication of this order and furnish the bond as stated above. The bound shall be subject to

all the conditions under Section 4 of the Probation of Offenders Act.

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