SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Arjun Ram Vs. State of Bihar

Arjun Ram Vs. State of Bihar

SooperKanoon Citation : sooperkanoon.com/37022

Court : Jharkhand

Decided On : Jan-15-2015

Appellant : Arjun Ram

Respondent : State of Bihar

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI Criminal Appeal No.409 of 2000 (R) ---- Arjun Ram, son of Jagdish Ram, Resident of village Nwadiih, P.S.Sariya Bagodar, District Giridih ... Appellant -Versus- The State of Bihar ... ... Respondent ---- CORAM : HONBLE MR. JUSTICE VIRENDER SINGH, CHIEF JUSTICE HONBLE MR. JUSTICE APARESH KUMAR SINGH ---- For the Appellant :M/s. Amrita Banerjee & A.K.Sahani, Advocates For the Respondent :Ms. Anita Sinha, APP ---- Order No.06 : Dated 15th January,2015 Per: Aparesh Kumar Singh.J.

--- 1. At the out set, it is submitted that the accused appellant has been released from Jail on 16.5.2010 after undergoing the entire substantive sentence including remission granted by the State.

2. Appellant Arjun Ram along with three others were charged under Sections 323,341,307/34 and 302/34 IPC for intentionally causing the death of Mathura Ram (Kahar) on 6.11.1995 and also for voluntarily causing hurt to Mathura Ram (Kahar), Basudeo Kahar, Ram Kishun Kahar, Anjani Devi and Sundri Devi. By the impugned judgment rendered by the court of First Additional Sessions Judge,

Giridih dated 4.2.2000 in Sessions Trial No.113/96 the appellant herein was convicted for the offences under Sections 302 and 341 IPC and sentenced to undergo imprisonment for life and a fine of Rs.1000/- and in default whereof to suffer three months simple imprisonment. The other three accused persons were held guilty under Sections 323 and 341 IPC.

3. In short the prosecution case is that the aforesaid accused persons including the appellant in furtherance of their common intention on 6.11.1995 at village Nawadih, P.S. Bagodar (Sariya), District Giridih had voluntarily caused hurt to Mathura Kahar, Basudeo Kahar, Ram Kishun Kahar, Anjani Devi and Sundri Devi and attempted to take away their life. Accused Jagdish Ram was further charged under Section 325 IPC for causing grievous hurt to Anjani Devi and Mathura Kahar on the same day of occurrence. The present appellant was charged under Sections 302 and 325 IPC for having caused death of Mathura Kahar and further causing grievous injury on the person of Ram Kishun Kahar 2. by means of Tangi.

4. The fardbeyan of informant Tejo Kahar was recorded on 6.11.1995 at 14/15 hours, which, inter alia, alleged that his wife Anjani Devi was restrained by the accused while returning home after cutting paddy crops and was also assaulted. The informant along with his son and other members of his family rushed to the place of occurrence on hearing hulla and while trying to rescue Anjani Devi, were also assaulted by the accused persons by means of tangi, lathi etc., as a result of which they sustained injuries. During course of investigation Section 307 IPC was added and since the injured Mathura Kahar succumbed to his injury, Section 302 IPC was also added by ordersheet dated 16.11.1995. Upon submission of chargesheet against four named accused persons under Sections 341,323,324,325,307,302/34 IPC, cognizance was taken against the accused persons and all the four accused persons were committed to the court of sessions. The accused persons pleaded not guilty to the charges and thereafter the trial commenced.

5. 8 witnesses were examined on behalf of the prosecution while 3 on behalf of the defence. One witness Pradeep Kumar was examined as court witness no.1.

6. The accused persons tried to make out a case that they were assaulted by the informant and his companions which resulted in institution of Bagodar (Sariya) P.S.Case No.243/95 earlier in time. The learned trial court, after appreciation of the testimony of the prosecution witnesses nos.1,2,3 and 4, all of them were injured witnesses and had consistently stated that the accused appellant Arjun Ram was armed with tangi and had given tangi blow on the head of the deceased Mathura Kahar, found no reason to disbelieve their statements only on the ground that they were interested witnesses and not independent witnesses. Injuries found on the body of the deceased Mathura Kahar coupled with the categorical statement that the accused Arjun Ram had inflicted injuries by means of tangi on the head of the deceased, clearly pointing out to the intention of the accused found the charge under Section 302 IPC established against the accused-appellant herein beyond the shadow of any 3. reasonable doubt. The learned trial court also took into account the argument advanced by the defence relating to the delay in sending the FIR by observing that the instant incidence was reported at Sariya P.S. on 6.11.1995 at 16 hours. At the relevant point of time Sariya P.S., under whose jurisdiction the occurrence took place, was not an independent police station and was attached to Bagodar Police Station. The formal FIR, Ext.4, was thereafter sent to Bagodar Police Station for registering a case, which was registered as Bagodar (Sariya) P.S.Case No.244/95 on 8.11.1995. Therefore, the learned trial court found that the Police Officer of Sariya Police Station had never delayed the matter in recoding the statement of the witnesses or registering a case at Saria Police Station. The learned trial court also found that PW3Anjani Devi in her statement has clearly specified the place of occurrence by saying that when she reached the Sarguja Khet, the accused persons had restrained and assaulted her. When the other witnesses and the deceased reached to rescue Anjani Devi they were also assaulted on the same place. In fact, the defence had also proved the formal FIR and the written report of Bagodar (Sariya) P.S. Case No.243/95 in which they had admitted the occurrence which was alleged to have taken place on 6.11.1995 between the parties. The learned trial court found that there were four injured witnesses, who had been examined and had sustained injuries in the alleged incidence and whose presence cannot be doubted if they are consistent in their statements. The learned trial court did not find any contradiction in the

statements of PW1to 4 on the material point in the manner of occurrence and assault to them as well as to the deceased at the hand of the accused persons. Therefore, the learned trial court came to a conclusion that the prosecution had clearly brought home the charges beyond any shadow of reasonable doubt against the accused appellant Arjun Ram for the charges under Sections 302 and 341 IPC. The remaining three accused persons, however, were found guilty under Sections 323 and 341 IPC.

7. We have scanned the entire materials evidence on record as the first court of appeal. In the instant case, as per the prosecution story, the accused appellant along with three others were said to have indulged in assaulting Anjani 4. Devi, the wife of the informant Tejo Kahar while she was returning after cutting the paddy crops from the field by restraining her. On hearing the alarm raised by Anjani Devi, the informant and his son and other member of the family rushed to the spot to rescue her. The accused appellant Arjun Ram was armed with tangi as per the consistent statements of the injured witnesses, namely, Anjani Devi, Basudeo Kahar, Ram Kishun Kahar and Sundri Devi while others were said to be armed with lathi. All these four prosecution witnesses are consistent on the point of assault by tangi by the accused appellant Arjun Ram upon the deceased Mathura Kahar.

8. The Medical Officer, PW7has proved the injury report with respect to the deceased Mathura Kahar, Anjani Devi, Ram Kishun Kahar and Sundri Devi respectively.

9. Dr. B.P.Singh, PW8 who conducted the postmortem examination on 14.11.1995 on the dead body of Mathura Kahar, had found at least five ante mortem injuries on the deceased with injury no.1 being stitched wound on left side scalp 2 long whose edges were found to be irregular and uneven. On dissection he had found brain substance contused with the intra canal cavity found blood clot. The aforesaid injuries, which have been proved on the body of deceased by the Medical Officer together with their statements made in relation to the place of occurrence and the manner of assault clearly established the prosecution story.

10. All these witnesses are consistent upon the role of the accused Arjun Ram in causing the blows by tangi upon the deceased Mathura Kahar. The defence has not been able to discredit the testimony of these prosecution witnesses, who also suffered the assault and were injured, specifically Anjani Devi, wife of the informant.

11. Having appreciated the entire material evidence on record and the submissions of the learned counsel for the appellant and the State, we are of the considered view that the charges under Section 302 read with 341 IPC has been proved by the prosecution against the accused appellant beyond all 5. reasonable doubt. We do not find any infirmity in the impugned judgment of conviction and the sentence awarded. Therefore, the instant appeal being devoid of merit is dismissed. (Virender Singh, C.J.) (Aparesh Kumar Singh, J.

) Pandey/

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com