

Paresh Munda and Ors Vs. State of Bihar and Ors

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Court : Jharkhand

Decided On : Feb-20-2015

Appellant : Paresh Munda and Ors

Respondent : State of Bihar and Ors

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI Cr. Revision. No.115 of 1996(R) 1. Paresh Kunda @ Paresh Singh Munda S/o Jeevan Singh Munda 2. Sakha Munda S/o Sukhram Munda 3. Dhanu Swansi @ Dhanjay Swansi S/o Ramjeevan Swansi All residents of Village - Sutilong P.S. - Bundu, District - Ranchi.

4. Kamla Kant Swansi S/o Late Balram Swansi 5. Manbodh Swansi S/o Kamla Kant Swansi Both residents of Village - Baridih, P.S. - Tamar, District - Ranchi. .
Petitioners Versus 1. State of Bihar 2. Jageshwar Mahato S/o Late Dayal Mahato R/O Village - Sutilong, P.S. - Bundu, District - Ranchi. Opposite Parties -----
CORAM: HON'BLE MR. JUSTICE AMITAV K. GUPTA ----- For the Petitioners :
Mr. Navin Kumar Jaiswal, Advocate For the State : Mr. K. K. Mishra, A.P.P -----
09/Dated:

20. h February, 2015 This revision is directed against the judgment and order dated 04.06.1996 passed by the learned 1 st Additional Judicial Commissioner, Ranchi in Cr. Appeal No.35 of 1988 affirming the order of conviction under Section 427 of the Indian Penal Code passed by the Judicial Magistrate, Khunti in

Complaint Case No.10 of 1987 (T.R. No.131 of 1988) with modification of the sentences of simple imprisonment for six months to simple imprisonment for three months.

2. The case of the complainant is that on 26.06.1987 the petitioners - accused damaged the paddy crops standing over the Plot No.42 in Sutlong Mauza causing loss of Rs.300/- to the complainant. That the said land was purchased by the father and uncle of the complainant in auction sale and since then complainant is in possession of - 02 - the said land. That earlier there was proceeding under Sections 145 and 146 of the Cr.P.C over the disputed land between the complainant's father and uncle and the father of the petitioners. That a civil suit was also filed by the father of the petitioners with respect to the said land and the same was decided in favour of the complainant's father and uncle.

3. On the basis of the complaint, cognizance was taken and the petitioners faced trial for the offence under Sections 147 & 427 of the Indian Penal Code and were found guilty for the charges under Section 427 I.P.C by the Judicial Magistrate and on appeal, order of conviction was upheld by the impugned order.

4. Mr. Navin Kumar Jaiswal, learned counsel, for the petitioners has argued that it is admitted case of the complainant that there is bonafide land dispute as the land was earlier recorded in the name of the ancestors of the petitioners. That for the dispute of the land earlier proceedings were initiated under Sections 145 and 146 Cr.P.C between both the parties. That the trial Court as well as the appellate court have failed to appreciate the well settled principle that a bonafide dispute of land is a good defence against prosecutions case. That the trial court and the appellate court have failed to appreciate that all the witnesses are interested witnesses as they are related to the complainant. That there are material contradictions in the testimony of the witnesses and there is no clinching evidence to make out the offence under Section 427 I.P.C.

5. Mr. Kaushal Kishore Mishra, learned A.P.P has argued that the plea of bonafide dispute has been considered by the trial court and appellate court and the documents filed on behalf of the complainant show that the land was in possession of the complainant. The petitioners had damaged the paddy crops

which was sown by the complainant. The evidence has been appreciated and discussed and the impugned judgment and order is in accordance to law and it does not merit interference by this court. - 03 - 6. Heard. Perused the impugned order. The complainant had produced the sale certificate dated 06.07.1933 which was executed by the Sub-Divisional Officer, Khunti; the writ for delivery of possession dated 03.03.1937 and the order affecting delivery of possession dated 20.03.1937 which have been marked as Exbt. -3. The order passed in Miscellaneous Case No. 9 of 1963 with respect to the proceeding under Section 146(1) wherein the possession of the father of the petitioner has been declared. Likewise Exbt.-1 are the rent receipts which were granted by the Munda Zamindar with respect to the P.O. land. That the order sheet passed in Title Suit No. 63 of 1967 filed by the father of the petitioner is Exbt.-2. The documents have been considered by both the courts below and the said documents prove the title and possession of the complainant over the P.O. land.

7. The petitioners could not produce any unimpeachable documents to establish their title and possession of the said land. They have not denied that their right and title over the said land stood extinguished by the auction sale.

8. On the point of occurrence complainant has examined P.W.-1, Kanak Sai Mahto, P.W.-2, Jageshwar Mahato, the complainant himself, and P.W.-3, Kisto Munda, an independent witness whose land is situated adjacent to the P.O land and he has supported the complainant's testimony that the petitioners damaged the paddy crops causing loss of Rs. 300/- to the complainant. In cross-examination no material contradiction could be drawn to impeach the credibility of the testimonies of the witnesses. It is evident that the trial court and appellate court have appreciated and discussed the evidence on record and found the petitioners guilty for the charge under Section 427 of the I.P.C. The said order has been passed on the basis of material evidence on record. There is no illegality or impropriety in the finding in the order warranting any interference by this court. Accordingly the judgment and order is, hereby, affirmed. - 04 - 9. Considering the fact that the case is of the year 1988 and the petitioners have faced mental agony and rigorous of trial for more than 25 years accordingly, the sentence of imprisonment of three months is modified and the petitioners are sentenced for the

period already undergone in custody. The petitioners are discharged of the liabilities of the bail bonds.

10. With the aforesaid modification of sentence the criminal revision is, hereby, dismissed. (AMITAV K. GUPTA, J.) Chandan/-

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