

Laxmi Devi Vs. State of Jharkhand and ors.

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Court : Jharkhand

Decided On : Dec-20-2005

Reported in : 2006CriLJ1590

Judge : N. Dhinakar, C.J.

Acts : Probation of Offenders Act; Indian Penal Code (IPC) - Sections 147, 323, 341 and 452; Code of Criminal Procedure (CrPC) , 1974 - Sections 360

Appeal No. : Cri. R. No. 395 of 2004

Appellant : Laxmi Devi

Respondent : State of Jharkhand and ors.

Advocate for Def. : A.P.P.

Advocate for Pet/Ap. : H.B. Lakhaiyar, Adv.

Disposition : Appeal dismissed

Judgement :

ORDER

N. Dhinakar, C.J.

1. This revision has been preferred for enhancement of sentence, awarded to opposite party Nos. 2 to 9.

2. Petitioner is the informant and she is aggrieved against the judgment of the appellate Court, which reduced the sentence earlier imposed by the trial Court, releasing opposite party Nos. 2 to 9 on probation of good conduct.

3. The case of the prosecution, as could be seen from the facts placed before me, is that on 10-2-1999 at about 8 p.m. when the informant-petitioner along with her family members was at home, a group of persons, variously armed with lathis and rods, forming unlawful assembly, entered the house, beaten the informant and caused injury to her.

4. After the complaint was made, it was taken up for investigation and final report was ultimately submitted against opposite party Nos. 2 to 9 for the offence under Sections 452, 323, 341 and 147, IPC. The trial Court on the evidence adduced before it, while convicted opposite party Nos. 2 to 9, awarded sentence of simple imprisonment for two years to each of them under Section 452, IPC, simple imprisonment for one year under Sections 147 and 323, IPC respectively and also simple imprisonment for one month under Section 341, IPC. All the sentences were directed to run concurrently.

5. Aggrieved by the said order of sentence, opposite party Nos. 2 to 9 preferred an appeal and the appellate Court by judgment dated 26-2-2004 while confirming the order of conviction, directed release of opposite party Nos. 2 to 9 on probation of good conduct, by holding that the trial Court did not assign any special reason for refusing the benefit under the provisions of Probation of Offenders Act, as contemplated under Section 360, Cr.P.C. Accordingly, the order of sentence was modified and opposite party Nos. 2 to 9 were released on probation of good conduct.

6. The learned Counsel, appearing on be-half of the petitioner, submits that since the complainant was molested, the appellate Court was not justified in modifying the order of conviction.

7. I find no substance in such argument, as it is an admitted case that no charge was framed for outraging the modesty of the woman, namely, the complainant, and in absence of any charge, it is not proper for the petitioner. at this stage, to

complain that her modesty was outraged and, therefore, sentence is inadequate,

8. I find no merit in this revision application. It is, accordingly, dismissed.

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