

Chhatar Bhumij Vs. State

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Court : Orissa

Decided On : Mar-10-2000

Reported in : 90(2000)CLT14; 2000(I)OLR451

Judge : B.N. Agrawal, C.J.

Acts : Indian Penal Code (IPC) - Sections 307

Appeal No. : Jail Criminal Appeal No. 37 of 1996

Appellant : Chhatar Bhumij

Respondent : State

Advocate for Def. : Addl. Standing Counsel

Advocate for Pet/Ap. : Akshaya Kumar Rath, Adv.

Judgement :

B.N. Agrawal, C.J.

1. The sole appellant (hereinafter referred to as the 'accused') has been convicted by the trial Court Under Section 307 of the Indian Penal Code, 1860 (in short, 'I.P.C') and sentenced to undergo rigorous imprisonment for a period of seven years.

2. Prosecution case, in short, is that on 26.3.1995 at about 4 a.m. the accused assaulted the informant,-P.W.1's father (Pahadi Bhumij) examined as P.W. 5, his sister Mani Bhumij (P.W. 6) and motherjateswari Bhumij (P.W.9) with tangi while they were sleeping on the yarandah of the house. On hearing hullah, the neighbours arrived and found that the aforesaid persons were injured and lying on the ground in an unconscious condition with bleeding injuries. Thereafter the neighbours rushed to give, information to the informant, who upon receipt of information came to the place of occurrence and found that the aforesaid three members of the family were lying on ground with bleeding injuries. The said three injured persons narrated the incident to the informant, and named the accused to be their assailant. Thereupon first information report was lodged at the police station.

The police after registering case took up investigation, and after completion of the same submitted charge-sheet against the accused. The learned Magistrate took cognizance and committed the accused to Court of Session to face trial.

3. The accused took the plea that he was innocent and has been falsely implicated in the case in hand. According to the accused, no occurrence much less the occurrence as alleged had taken, place.

4. In support of its case prosecution examined eleven witnesses out of whom P.W. 1 is the informant himself. P.W. 5 is the father of informant, P.W. 6 is the sister and P.W. 9 is the mother, all of whom claimed to be injured eye-witnesses, P.Ws. 2, 3 and 8 claimed to have arrived the place of occurrence on hearing hullah raised by the injured persons, who narrated the incident to them, and named the accused to be the assailant. P.Ws. 4 and 7 are, seizure witnesses P.W. 10 is the Investigating Officer of the case, whereas P.W. 11 is the Doctor who examined aforesaid three injured persons. The trial Court after taking into consideration the entire evidence has convicted and sentenced the accused as indicated above. Hence this appeal.

5. In this appeal, it appears that there were injured eye-witnesses, i.e. P.Ws. 5, 6 and 9, who have consistently supported the prosecution case disclosed in the first information report, and their statement is corroborated by the evidence of P.Ws. 2, 3, and 8, who arrived after hearing hullah and before whom they narrated the

incident and named the accused. I do not find any ground to disbelieve the evidence of any of these witnesses. Learned counsel appearing on behalf of the accused-appellant also could not point out any infirmity in the evidence of those witnesses.

6. That apart, the ocular version disclosed by the witnesses is corroborated by medical evidence as the doctor found injuries upon the person of all the three persons. The evidence of the Investigating Officer also supports the prosecution case. In my view, the prosecution has succeeded in proving its case beyond all reasonable doubts, and the Court below has not committed any error in convicting the accused- appellant.

7. Learned counsel appearing on behalf of the accused-appellant contended that the appellant has been awarded sentence of seven years' rigorous imprisonment and he has remained in jail for a period of about five years as he was arrested on 27.3.1995. Therefore, this Court should reduce the period of sentence awarded against him to the period already undergone. In the facts and circumstances of the case and keeping in mind the nature of injuries, I am of the view that ends of justice will be met in case sentence awarded against the appellant is reduced to the period already undergone. Accordingly, I reduce the sentence of seven years' rigorous imprisonment awarded against the appellant to the period already undergone.

8. In the result, with aforesaid modification in sentence awarded against the appellant, the appeal is dismissed. The appellant, who is in custody is directed to be released forthwith, unless he is required in connection with any other case.