

Murshid and Others Vs. State of Bihar

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Court : Patna

Decided On : May-16-2011

Judge : Anjana Prakash, J.

Acts : Indian Penal Code (IPC) - Sections 148, 147, 436, 436/149

Appeal No. : Criminal Appeal No.99 OF 1996 (S.J.)

Appellant : Murshid and Others

Respondent : State of Bihar

Judgement :

1. I.P.C. and 148 I.P.C. and sentenced to R.I. for five years and one year respectively, whereas appellant no.2 has been convicted u/s.436 I.P.C. and 148 I.P.C. and sentenced to R.I. for five years and one year respectively and appellant no.3 has been convicted u/s.147 I.P.C. and 436/149 I.P.C. and sentenced to R.I. for six months and two years and the appellant no.4 has been convicted u/s.436/109 I.P.C. and 148 I.P.C. and sentenced to R.I. for three years and one year respectively and the appellant no.5 has been convicted u/s.436/149 I.P.C. and 147 I.P.C. and sentenced to R.I. for three years and six months respectively by the 1st Additional Sessions Judge, Katihar in Sessions Trial No.60 of 1992 by a judgment dated 17.4.1996.

2. The prosecution case is that on 3.5.1991 the appellants variously armed came to the complainant and started pressurizing him to depose falsely in their favour

and on refusal appellant no.1 ordered appellant no.2 to set fire on his house, which he did, on account of the same his house and cattles were burnt. When the police refused to record his fard beyan the present complaint was instituted.

3. During trial the prosecution examined five witnesses, all of whom are on the factum of occurrence. P.W.1 is said to have reached the place of occurrence on hulla and thereafter had seen the appellants setting fire to the house of the complainant. P.W.2 is also on the same point. During cross examination his attention was drawn to the fact that Sk. Gani and Abdul Majid were his relatives and earlier there was some kind of cases between them. P.W.3 is also on the same point and his attention was drawn to the fact that he did not take any steps with regard to dousing the fire. P.W.5 is the complainant himself.

4. On a fair assessment of the prosecution evidence, it is undoubtedly proved that the prosecution case is dependent only on the oral evidence of these witnesses and there is no objective support with regard to the same. In the background of enmity between the parties, it is difficult to maintain the conviction of the appellants in the absence of objective corroboration.

5. In the result, the appeal is allowed and the order of conviction and sentence passed against the appellants on 17.4.1996 by the 1st Additional Sessions Judge, Katihar in Sessions Trial No.60 of 1992 is set aside. The appellants are discharged from the liabilities of their bail bonds.

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