

Md. Raquibui Son of Late Md. Ishahaque Vs.

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Court : Patna

Decided On : May-16-2011

Judge : Anjana Prakash, J.

Acts : Indian Penal Code (IPC) - Sections 307, 324, 325

Appeal No. : Criminal Appeal (SJ) No.294 OF 1996

Appellant : Md. Raquibui Son of Late Md. Ishahaque

Respondent : State of Bihar

Advocate for Def. : Dr. Indiwari Kumari, Adv.

Advocate for Pet/Ap. : Mr. Mani Bhushan Kumar, Mr. Anil Chandra, Adv.

Judgement :

1. The Appellant has been convicted under Sections 307 and 324 of the Indian Penal Code and sentenced to rigorous imprisonment for ten years by a Judgment dated 29.11.1996 in Sessions Trial No. 203 of 1994/27 of 1994 passed by the Additional District & Sessions Judge, Muzaffarpur.

2. The case of the prosecution is that on 28.6.1993, an altercation arose between the Appellant and the Informant and he along with his wife came and assaulted the Informant with Farsa and dagger.

3. The prosecution in all examined ten witnesses out of whom PW-1 stated in his cross-examination that he had no knowledge why the altercation had taken place. PW-4 and PW-7 have declared hostile whereas PW-5 and PW-6 are formal 2 witnesses. PW-9 is the Doctor who examined the injured and PW-8 is Informant. PW-10 is a formal witness.

4. On going through the analysis of evidence, I find that only the Informant and his wife (PW-2) have supported the case of the prosecution but their evidence is completely trustworthy and there is no material contradiction which would belie their testimony. Further, the evidence of the Doctor (PW-9) also objectively corroborates the prosecution case.

5. However, in the manner of occurrence described by the prosecution, this Court is unable to sustain the conviction of the Appellant under Section 307 of the Indian Penal Code and, therefore, it is converted to one under Section 325 of the Indian Penal Code and his sentences modified to the period already undergone by him during trial. In addition the Appellant (if alive) will deposit a fine of Rs. 2,000/- within a period of eight weeks from the date of the notice from the Trial Court and if he fails to do so, he shall be sentenced to a period of three months. This amount shall be paid to the Complainant/his family by the Trial Court.

6. In the result, the Appeal is dismissed with the aforesaid modification.

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