

Thakur Prasad Vs. the State of Bihar

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Court : Patna

Decided On : May-19-2011

Judge : Anjana Prakash, J.

Acts : Indian Penal Code (IPC) - Sections 307, 324; Arms Act - Section 27

Appeal No. : Criminal Appeal No.36 OF 1996 (S.J.)

Appellant : Thakur Prasad

Respondent : The State of Bihar

Advocate for Def. : Mrs. Pushpa Sinha, Adv.

Advocate for Pet/Ap. : Mr. Bipin Bihari Prasad, Mr Kumar Laliteshwar Pd. Singh, Md. Rashid Izhar, Advs.

Judgement :

1. The appellants have been convicted u/s.307, 324 I.P.C. and 27 of the Arms Act and sentenced to R.I. for seven years, one year and three years respectively by the Sessions Judge, Jehanabad in Sessions Trial No.794 of 1992 by a judgment dated 6.2.1996.

2. The case of the prosecution that on 19.3.1988 while the informant was returning from his duty, suddenly the appellants came on a motorcycle and fired at him, on account of which he was injured on his right wrist.

3. During trial the prosecution in all examined seven witnesses. Out of whom, P.W.2 and P.W.7 are formal witnesses, whereas P.W.6 is the informant. P.W.1, P.W.3, P.W.4 and P.W.5 came at the place of occurrence as soon as the informant was shot at and saw the appellants fleeing away from the place of occurrence.

4. On going through the evidence of the informant (P.W.6) and the corroborative witnesses i.e. P.W.1, P.W.3, P.W.4 and P.W.5, there is no manner of doubt that in fact the appellants had fired and injured the informant. However, the doctor has not been produced by the prosecution and, therefore, it is difficult to uphold the conviction of the appellants u/s.307 I.P.C. more so in the manner of occurrence as narrated by them.

5. In view of such, the conviction of the appellant's u/s.307 and 324 I.P.C. is set aside but the conviction of the appellant's u/s.27 of the Arms Act is maintained. However, the period already undergone by them during trial shall be sufficient in the interest of justice for their conviction u/s.27 of the Arms Act.

6. In the result, the appeal is partly allowed.

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