

Yudhisthir Rajwar and Others Vs The State of Jharkhand

Court: Jharkhand High Court

Date of Decision: April 16, 2010

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 313
Penal Code, 1860 (IPC) â€” Section 147, 148, 149, 427, 435

Hon'ble Judges: Prashant Kumar, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Prashant Kumar, J.

This appeal is directed against the judgment of conviction and order of sentence dated 08.05.2003 passed by

Additional District & Sessions Judge, Fast Track Court No. 4, Bokaro in S.T. No. 103 of 1998 whereby the appellants were convicted for the

offence u/s 148, 427, 436, 149 of the IPC and sentenced to undergo R.I. for one year u/s 148 IPC, R.I. for one Year u/s 427 of the IPC and R.I.

for seven years u/s 436/149 of the IPC.

2. The case of prosecution in short is that the informant on 6.4.1997 at about 1 p.m. returned from village pond after taking bath and saw that the

appellants along with two others were demolishing outer wall of his house with the help of Gaita and Sabbal. It is further stated that the mother of

the informant was raising alarm. It is further stated that after demolishing the wall, appellants entered inside the house and then Yudhisthir Rajwar

(Appellant No. 1) put fire in the house, due to that a portion of the house of informant burnt. It is further alleged that due to wind, the flame spread

towards the Khalian of Yudhisthir Pandey and Kanhai Pandey and because of that heap of straw kept in their khalian also burnt.

3. On the basis of aforesaid fardbeyan Chandan Keyari P.S. Case No. 30 of 1997 under Sections 147, 149, 436 of the IPC registered against

altogether 11 accused persons and police took up investigation. After, investigation, police submitted charge sheet against 10 accused persons,

namely, Yudhisthir Rajwar, Koka Rajwar, Satan @ Satar Rajwar, Lodi Rajwar, Prema Rajwar, Ghashi Ram @ Sashi Ram Rajwar, Madan

Rajwar, Manmath Rajwar, Rajan @ Raju Rajwar and Ashok Rajwar under Sections 147, 148, 149, 436/435 of the IPC.
Learned CJM, Bokaro

took cognizance of the offence. Thereafter committed the case to the court of sessions. It then appears that the charges were framed against the

aforesaid 10 accused persons u/s 148, 427, 436 read with Section 149 of the IPC and the same were explained to the accused persons, to which

they pleaded not guilty and claimed to be tried. It further appears that during the trial, one of the accused, namely, Ashok Rajwar died, therefore

case against him dropped. It appears that prosecution examined altogether eight witnesses in support of its case and also brought on record some

documentary evidence

4. After the close of the case of prosecution the appellants were examined u/s 313 of the Cr.P.C. in which they took defence that informant himself

demolished the wall of his own house and set fire on it and falsely implicated the appellants due to previous enmity. It further appears that after

considering the evidence available on record, the learned court below convicted and sentenced the appellants as aforesaid, against that present

appeal filed.

5. It is submitted by learned Counsel for the appellants that admittedly there is dispute between the parties from previous so many years in

connection with a land. It is further submitted that no independent witnesses supported the case of prosecution. It is further submitted that there is

material contradiction in the statements of prosecution witnesses. Accordingly, it is submitted that the prosecution has not been able to bring home

the charges levelled against the appellants beyond the shadow of all reasonable doubts

6. On the other hand, learned Additional P.P. submits that P.W. 2, 5 and 7 fully supported the case of prosecution and stated that the appellants

along with Ashok Rajwar (since deceased) demolished the house of informant and put fire on it. It is submitted that P.W. 5 is an independent

witness. It is submitted that while cross examining the aforesaid witnesses, nothing has been elicited by the defence on the basis of same their

testimony can be discarded. Moreover, evidence of aforesaid prosecution witnesses find full support from physical finding of the I.O. (P.W. 8.)

Accordingly, it is submitted that learned court below had rightly convicted and sentenced the appellants.

7. Having heard the submission, I have gone through the record of the case. From perusal of the statement of P.W. 7, informant of this case, I find

that he has fully supported the case of prosecution and stated that on the date and time of occurrence when he returned from village pond after

taking bath, he saw that the appellants and others were demolishing outer wall of his house with Gaita and Sabbal. He then deposed thereafter they

entered inside and put fire on the thatched roof of his house, due to that a portion of his house burnt along with articles kept there. He further

deposed that the aforesaid occurrence took place because land dispute between the parties.

8. P.W. 2 Namita Parmanik, sister-in-law of informant, narrated the same story while deposing in court. However, she named only Yudhisthir

Rajwar, Rajan Rajwar, Manmath Rajwar, Ashok Rajwar, Prema Rajwar amongst the appellants. But later on she deposed that she can identify

other accused persons (appellants) after looking their face as she did not know their names. P.W. 5 Yudhisthir Pandey is an independent witness.

He also supported the prosecution case as stated in the FIR. He deposed that appellants along with some others came at the place of occurrence

armed with Sabbal, Gaita, lathi and started demolishing outer wall of informant's house. He then deposed that thereafter appellants entered inside

house and put fire on the roof of informant's house. He also deposed that due to the wind, fire spread towards his Khaliha and due to that heap

of straw kept there caught fire and reduced ashes.

9. From perusal of cross examination of P.W. 2, 5 and 7, I find that nothing has been elicited by the defence on which their evidence can be

disbelieved. Moreover, P.W. 6 also stated that on the date of occurrence at about 1 to 1.30 p.m., he saw that Yudhisthir Rajwar, Rajan Rajwar,

Sankus Rajwar, Prema Rajwar, total 10 to 11 persons, were demolishing the wall of informant's house with Sabbal, Gaita etc. and thereafter they

entered inside the house. He further deposed that thereafter the mother of informant raised alarm that the accused persons put fire in her house.

Thus, P.W. 6 also supports the case of prosecution.

10. From perusal of evidence of P.W. 8 Ashok Kumar Singh the Investigating Officer, I find that his physical finding corroborates the evidence of

aforesaid prosecution witnesses. He specifically stated that during the inspection of place of occurrence he found that outer wall of informant's

house was demolished and a portion of the house of informant was burnt. Apart from the Investigating Officer the other witnesses, namely, P.W. 3,

and 4, though declared hostile by the prosecution, had also stated that on the date of occurrence after hearing hulla when they reached at the place

of occurrence they saw that the house of informant was burning. It is worth mentioning that appellants did not adduce any evidence to prove their

defence version.

11. In view of the aforesaid evidence available on record, I find that the learned court below rightly come to the conclusion that the appellants

committed the present crime. Thus, I find no illegality and/or irregularities in the impugned judgment of conviction and order of sentence passed by

the court below.

12. In the result, there is no merit in this appeal, the same is accordingly, dismissed. It appears that all the appellants are on bail, their bail bonds

cancelled. They are directed to surrender in the court below to serve out the sentence. The court below is also directed to take coercive steps for

their appearance.