
(1940) 09 PAT CK 0002

Patna High Court

Case No: None

Jadunandan Singh and Another

APPELLANT

Vs

Emperor

RESPONDENT

Date of Decision: Sept. 18, 1940

Acts Referred:

- Penal Code, 1860 (IPC) - Section 324, 384

Citation: AIR 1941 Patna 129

Hon'ble Judges: Dhavle, J

Bench: Division Bench

Judgement

@JUDGMENTTAG-ORDER

Dhavle, J.

Narain Dusadh and Sheonandan Singh, the gorait and gomasta respectively of a landlord, were returning after the inspection of some fields when the two petitioners and others came out of an ahar and assaulted them.

2. The petitioner Alakh gave a bhala blow to Narain on the right leg, and then other people assaulted him with lathis. The petitioner Jadunandan and others then assaulted Sheonandan. Jadunandan after this forcibly took the thumb impressions of Narain on one piece of blank paper, and of Sheonandan on three blank papers. On these findings the two petitioners and two others were convicted by the trying Magistrate, Jadunandan being sentenced u/s 384, Penal Code, to six months rigorous imprisonment and Alak to four months rigorous imprisonment u/s 324. Jadunandan was also found guilty u/s 323, but the Magistrate did not consider it necessary to pass any separate sentence on him under that section.

3. Two other men were also convicted by the Magistrate u/s 323 and fined. An appeal which was heard by the Additional Sessions Judge of Gay a failed. When the matter came to this Court, Varma J., rejected the revisional application of the last

two men, Baghu Kahar and Chander Singh, but admitted the application of Jadunandan Singh and also, so far as the question of sentence was concerned, that of Alakh.

4. It has been contended on behalf of Jadunandan Singh that no offence u/s 384 has been brought home to him. This contention is rested on the definition of "extortion" in Section 383 which reads:

Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security or anything signed or sealed which may be converted into a valuable security, commits "extortion".

5. It is clear that this definition makes it necessary for the prosecution to prove that the victims Narain and Sheonandan were put in fear of injury to themselves or to others, and further, were thereby dishonestly induced to deliver papers containing their thumb impressions. The prosecution story in the present case goes no further than that thumb impressions were "forcibly taken" from them. The details of the forcible taking were apparently not put in evidence. The trial Court speaks of the wrists of the victims being caught and of their thumb impressions being then "taken." Cases frequently occur which turn on the difference between the giving and the taking of thumb impressions.

6. In *Ramyad Singh v. Emperor Criminal Revn. No. 125 of 1931* heard by Sir Courtney-Terrell C.J., and myself on 15th April 1931, the victim was tied up on refusing to give his thumb impression on a piece of paper. He then consented to put his thumb impression on that piece of paper, and it was by that fear that he was found to have been induced to put his thumb impression on the paper. The conviction u/s 384 was therefore upheld.

7. This was contrasted with the case which had come before me sitting singly in 1930, *Kapildeo Singh v. Emperor Criminal Revn. No. 420 of 1930*, decided on 15th August 1930, where the finding of fact was that, helped by two others, the petitioner took by force the thumb impressions of the victim--the man was thrown on the ground, his mouth and eyes tied with a gamcha, his left hand pulled out and the thumb put into a kajrauta and then impressions of that thumb taken on certain papers.

8. I had held that in the circumstances there was no inducing the victim to deliver the pieces of paper with his thumb impressions. As to this, the late Chief Justice observed:

If the facts had been that the complainant's thumb had been forcibly seized by one of the petitioners and had been applied to the piece of paper notwithstanding his struggles and protests, then I would agree that there is good ground for saying that the offence committed, whatever it may be, was not the offence of extortion

because the complainant would not have been induced by the fear of injury but would have simply been the subject of actual physical compulsion, and I venture to agree with the reasoning of my learned brother Dhavle in *Kapildeo Singh v. Emperor* Criminal Revn. No. 420 of 1930.

9. The Assistant Government Advocate has drawn attention to [Batisa Singh and Others Vs. Emperor](#), where the petitioners were convicted u/s 347. It is said in one part of the report that the victim was laid down on the floor and gagged and only allowed to go after his thumb impressions were taken on several pieces of paper. Macpherson J. upheld the conviction, after pointing out however that it had been found as a fact that the petitioners intentionally put the victim in fear of injury to himself and thereby dishonestly induced him to place his thumb impression upon certain pieces of paper. There is no such finding in the present case. The lower Courts only speak of the forcible taking of the victim's thumb impressions and as this does not necessarily involve inducing the victim to deliver papers with his thumb impressions, (papers which could no doubt be converted into valuable securities), I must hold that the offence of extortion is not established.

10. The learned advocate suggested that in that event this may be a case of robbery, but it has not been asserted or found that the papers were taken from the victim's possession. It seems to me that on the findings the offence is no more than the use of criminal force or an assault punishable u/s 352, Penal Code.

11. Jadunandan Singh was also convicted u/s 323, but no separate sentence was passed upon him under that section. I do not propose to interfere with that part of the order of the lower Court, and as regards his conviction u/s 384, Penal Code, which must be replaced by a conviction u/s 352, Penal Code, I sentence him to rigorous imprisonment for three months and a fine of Rs. 100 with two months rigorous imprisonment in default. As regards the petitioner Alakh it has been urged that he is a student.

12. From the record it appears that his age is 22, and though the record does not show that he is a student, an attempt has been made before me quite recently by means of an affidavit and a certificate to show that he is a student. I am not sure that this is any mitigation of the offence of causing hurt with a bhala, but having regard to the nature of the injury that he caused, it seems to me that the ends of justice will be served if the sentence passed upon him u/s 824, Penal Code, is reduced to rigorous imprisonment for three months. Ordered accordingly.