

(2011) 04 PAT CK 0061

Patna High Court

Case No: Criminal Appeal (SJ) No. 50 of 1994

Jaldhar Yadav and
Others

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision: April 25, 2011

Acts Referred:

- Penal Code, 1860 (IPC) - Section 147, 148, 149, 307

Hon'ble Judges: Anjana Prakash, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Anjana Prakash, J.

The Appellants have been convicted u/s 307/149 and 147 IPC and sentenced to RI for five years whereas the Appellants No. 2 to 6 of Cr. Appeal (SJ) No. 66 of 1994 have been convicted u/s 148 IPC and sentenced to RI for two years and the rest of the Appellants have been convicted u/s 147 IPC and sentenced to one year RI by a judgment dated 22.02.1994 passed by the 2nd Additional District & Sessions Judge, Jamui in Sessions Case No. 438/1991.

2. The prosecution case is that on 05.08.1988 the accused persons came upon the lands of the prosecution party and attempted to forcibly take possession of the same and when protested assaulted on the injured persons.

3. The prosecution in all examined ten witnesses out of whom P. Ws. 1, 2, 3, 4 and 7 are eye-witnesses. P.W. 5 and P.W. 6 are tendered. P.W. 8 is the Doctor. P.W. 9 and P.W. 10 are formal witnesses. The Investigating Officer has not been examined.

4. The defence examined one witness on its behalf who has brought on record the injury reports of the accused persons as also the First Information Report of the counter-case.

5. On going through the evidence of the material witnesses, one finds that they have specifically denied the factum of the counter-version and the assault on the accused persons. In view of such, admittedly, the prosecution has not brought true version of the occurrence before the Court and this Court finds it difficult to construct a third case in absence of the reliable prosecution case.

6. In the result, the appeals are allowed and the judgment dated 22.02.1994 passed by the 2nd Additional Sessions Judge, Jamui in S. Tr. No. 438 of 1991 is set aside. The Appellants are discharged of the liability of their bail bonds.