

(2011) 08 PAT CK 0178**Patna High Court****Case No:** Criminal Revision No. 223 of 2002

Mohiuddin Ansari

APPELLANT

Vs

The State of Bihar and Riyayat
Ansari

RESPONDENT

Date of Decision: Aug. 29, 2011**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 325

Hon'ble Judges: Amaresh Kumar Lal, J**Bench:** Single Bench**Final Decision:** Dismissed

Judgement

Amaresh Kumar Lal, J.

The accused Petitioner has preferred this revision application against the judgment dated 16.01.2002 passed by the learned 7th Additional Sessions Judge, Rohtas at Sasaram in Cr. Appeal No. 101/95 by which the judgment and order of conviction and sentence dated 22.07.1995 passed by the learned Judicial Magistrate convicting and sentencing him for 3 years u/s 325 in G.R. No. 717/91, Trial No. 283/95 has been affirmed and the appeal has been dismissed.

2. The prosecution case, in brief, is that on 21.04.1991 at 9.00 A.M., the accused were digging trench in the land of the informant Riyayat Ansari, which was objected by him. Thereafter, at the instance of Hafiz Ansari, the accused Mohiddin Ansari (petitioner) gave a Rami blow causing injury to the informant. The other-accused Doma @ Jamil assaulted with Lathi. On Hulla witnesses arrived there and intervened. On the written report, F.I.R. was instituted. After investigation, charge-sheet was submitted. After taking cognizance, the trial was held and all the accused were held guilty and sentenced whereas, the Petitioner was also held guilty for the offence punishable u/s 325 of the I.P.C. and sentenced to rigorous imprisonment for three years. All the accused filed Cr. Appeal No. 101/95 in which the sentence of other accused was modified and the conviction and sentence of the Petitioner was upheld.

3. Heard the learned Counsel for both the parties and perused the records. It appears that the learned Magistrate as well as the learned appellate court has considered the evidence available on the record. There is no material on the record to controvert the finding of the learned courts below. It further appears that the occurrence has taken place on 21.04.1991 and more than 20 years have passed. The Petitioner has been suffering from mental agony for this long period. It further appears that he has also remained in custody for some time. It further appears that it is a fit case in which the sentence should be modified.

4. Considering the facts and circumstances, the sentence of the Petitioner is modified and reduced to the period already undergone in custody.

5. With this modification in the sentence, this revision application is dismissed.