

S U P R E M E C O U R T O F I N D I A
 RECORD OF PROCEEDINGS
 CRIMINAL APPEAL NO(s). 1315 OF 2003

RAM BALAK SINGH & ORS.

Appellant (s)

VERSUS

STATE OF BIHAR

Respondent(s)

(With office report)

Date: 09/02/2012 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
 HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Appellant(s) Mr. Nagendra Rai, Sr. Adv.
 Mr. Ambhoj Kumar Sinha, Adv.

For Respondent(s) Mr. Gopal Singh, Adv.

UPON hearing counsel the Court made the following
 O R D E R

The appeal is disposed of in terms of the signed
 order.

(Shashi Sareen)
 Court Master

(Veena Khera)
 Court Master

(Signed order is placed on the file)
 IN THE SUPREME COURT OF INDIA
 CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No. 1315 OF 2003

RAM BALAK SINGH & ORS.

... Appellant(s)

Versus

STATE OF BIHAR

... Respondent(s)

O R D E R

This appeal by special leave arises out of an order
 dated 14.11.2002 passed by the High Court of Patna whereby
 Criminal Appeal No. 374 of 1991 filed by the appellants

challenging their conviction for offences punishable under Sections 452, 147, 148, 323 of the Indian Penal Code (IPC) read with Section 27 of the Arms Act has been dismissed and the sentence of three years' rigorous imprisonment for the offence punishable under Section 452, I.P.C., two years' rigorous imprisonment for the offence punishable under Section 148 I.P.C. and a further sentence of one year rigorous imprisonment for the offence punishable under Section 147 I.P.C. has been upheld.

The incident in question had occurred as early as on 31.07.1985 when the appellant and five others were alleged to have trespassed into the house of the complainant - Bishnudeo Sharma and belaboured the complainant and his family members while being armed with weapons like lathis, a gandasa and a farsa. One of the accused member was even alleged to be armed with a double barell gun also although it is common ground that the same was not put to use in the course of the occurrence.

The Trial Court recorded the depositions of ten witnesses produced by the prosecution out of whom six were said to be eye-witnesses to the occurrence. Three, out of these six eye-witnesses, were injured in the incident. At the conclusion of the trial, the trial court found 12 accused persons out of a total of 15 to be guilty for offences punishable under Sections 147, 148, 452, 343 and 324 of the IPC read with Section 27 of the Arms Act. The Trial Court, however, gave benefit of the provision of Section 360 Cr.P.C. to two of the convicts namely; Bishnudeo and Vishnu Singh while sentencing the rest to different terms as already indicated above.

Aggrieved by the above judgment and order, the appellants filed an appeal to the High Court at Patna which upheld the conviction and sentence awarded to the appellants for all the offences mentioned above except one punishable under Section 324 I.P.C. The High Court acquitted the

accused under that section. The present appeal, as noticed above, assails the correctness of the said judgment.

We have heard Mr. Nagendra Rai, learned senior counsel appearing for the appellants and Mr. Chandan Kumar, learned counsel appearing for the State of Bihar.

The incident in question, it is evident from the evidence on record including the judgments of the two courts

-3-

below, had taken place on account of some enmity between the two factions arising out of a certain land related litigation that has been going on between the parties for a long time. The courts below have concluded that there was sufficient motive for the accused to commit the offences in question on account of said litigation. Independent of the motive, the courts below have, in our opinion, correctly appreciated the evidence of the injured witnesses whose presence on the spot could not be disputed in holding that the prosecution had proved its case against the appellants. Mr. Rao, also did not make any serious attempt to discredit the testimony of the eye-witnesses. In the circumstance, we see no reason to upset the concurrent findings of fact recorded by the Trial court and the High Court as regards the true genesis of the incident and the nature of the offences committed by the appellants. Having said that, we are of the view that the incident in question had taken place more than 25 years back. The appellants and the complainant party happen to be the residents of the same village and possibly neighbours. The nature of the injuries sustained by the complainant party have also been reported to be simple except one of injuries sustained by the Ram Vilas. If the appellants were indeed armed with the kind of weapons that are attributed to them, the nature of the offences committed, may have been much more serious. Some of the appellants were also it appears injured in the course of scuffle between the two groups. In the totality

of all these circumstances, we are inclined to interfere

-4-

only to the extent of quantum of punishment awarded to the appellants. We are told by the learned counsel for the parties that as against three years' rigorous imprisonment awarded to the appellants they have already served about five months in jail. Considering the background in which the incident took place and the nature of the injuries as also the attendant circumstances, we are of the view that the period of imprisonment already undergone by the appellants would suffice subject to the appellants depositing a sum of Rs. 15,000/- each towards compensation under Section 357 Cr.P.C. The total amount, so deposited, shall then be disbursed to the three injured witnesses in equal proportions. We make it clear that in case, the amount of compensation as directed to be paid by us in terms of this order, is not deposited with the Trial Court within a period of four months from today, the sentence awarded to the appellants shall revive and the appellants shall be taken in custody to serve the remaining part of the sentence. The order passed by the Trial Court and upheld by the High Court, is to the above extent modified and the appeal disposed of accordingly.

.....J.
(T.S.THAKUR)

.....J.
(GYAN SUDHA MISRA)

New Delhi,
February 09. 2012.