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SLP(Crl.)No. 3999 OF 2003
ITEM No.205

Court No.10

SECTION IIA
A/N MATTER

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No. 3999/2003

(From the judgement and order dated 04/12/2002 in CRLA 211/01
of The HIGH COURT OF PATNA)

MOSAFIR YADAV & ORS.

Petitioner (s)

VERSUS

STATE OF BIHAR

Respondent (s)

(With Appln(s). for c/delay in filing SLP and c/delay in refiling SLP)
(For Final Disposal)
(With Office Report)

Date : 02/04/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN
HON'BLE MR. JUSTICE B.N. SRIKRISHNA

For Petitioner (s) Mr. Krishna Prasad, Adv.
Mr. Ranjan Dwivedi, Adv.
Mr. Radhey Shyam, Adv.

For Respondent (s) Mr. Saket Singh, Adv.
Mr. B.B. Singh, Adv.

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

Delay condoned.

Heard learned counsel for the parties for ten minutes.

Leave granted.

The appellants are directed to be released forthwith,
if not required in any other case. The appeal is disposed
of.

(R.K. DHAWAN) (VEERA VERMA) COURT MASTER COURT MASTER

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

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2004
(Arising out of SLP(Crl) No.3999 of 2003)

Mosafir Yadav & Ors..... Appellants.

Versus

State of Bihar.... Respondent.

O R D E R

Leave granted.

This appeal is preferred by three accused against the order passed by 2nd Additional Sessions Judge, Gaya for the offence under Sections 324, 323 read with Section 34 IPC. The Sessions Judge found these appellants guilty of offence under Section 324 read with Section 34 IPC and sentenced them to undergo RI for a period of three years. They filed appeal before the High Court and the High Court confirmed the conviction and sentence.

We heard learned counsel for the appellants and the learned counsel for the respondent-State. Learned counsel for the appellants pointed out that the injuries sustained by Ram Briksh Yadav are of simple nature and the evidence of Dr. Surendra Choudhary, P.W.9, is incorrect. We also perused the record. Injury No.3 is alleged to be a grievous injury by the doctor but description

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of the injury is 2 x 2 x 2 on the left arm near elbow. Doctor has suggested X-ray but no X-ray report or any material are placed before the courts to show that the injury was of grievous nature. As the injuries are of simple nature, though the offence committed by them comes under Section 324 read with Section 34 IPC, the appellants deserve leniency in the matter of sentence. We are told that appellant nos.1 and 2 are in the jail for the last 11 months and appellant no.3 is in the jail for the last 9 months. We confirm the conviction but hold that the period of imprisonment already undergone by them is sufficient to meet the ends of justice. The appellants are directed to be released forthwith, if not required in any other case. The appeal is disposed of accordingly.

.....J
(K.G. BALAKRISHNAN)

.....J
(B.N. SRIKRISHNA)

NEW DELHI;
APRIL 2, 2004.