

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 829 OF 2019
[@ Special Leave to Appeal (CrI.) No(s). 7929/2016]

KEWAL SAH

Appellant(s)

VERSUS

THE STATE OF BIHAR & ORS.

Respondent(s)

O R D E R

Leave granted.

We have heard learned counsel for the parties.

This appeal has been filed against the order dated 01.10.2012 passed by the High Court in Criminal Appeal No. 156 of 2000 by which the High Court has though dismissed the appeal yet altered the conviction of the appellant. The brief facts necessary are:

“The prosecution case is that in the morning of 30.10.1992 the accused Mithu Sah, the brother of the informant kept the paddy bundles upon the land of the informant. At 5.30 pm on the same day when informant along with his son Birendra Sah, Sheo Shanker Sah and wife of Shyam Jharia Devi, went to Mithu Sah and enquired about the paddy bundles kept by the accused persons on the land of the informant and they also asked the accused persons to remove the paddy bundles from the land of the informant. The accused persons refused to remove the paddy bundles kept on the land of the informant. At this, the informant started to remove the paddy bundles on the land of the accused persons. At this, all the accused persons started to abuse the informant. Thereafter the informant and his soul asked them not to abuse them. At this, accused Mithu Sah gave order to bring acid to this, accused Mithu Sah gave order to bring acid to her son, Basisht Sah @ Chotaka Sah, accused Bashith Sah @ Chotaka throw acid on the person and mouth of Birendra Sah, the son

of the informant, due to which his son Birendra sustained burnt injuries. The accused Laljhari Devi caught hold Shyamjharia Devi and she started to push her wife by catching hair with view to kill her. When and he and his son, Sheo Shankar Sah went to save his wife, then accused Kishore Sah throw acid on the person of Sheo Shankar Sah as a result of which his son Sheo Shankar Sah sustained burnt injuries upon left hand and back. It has been further alleged that accused Bashishth Sah @ Chotaka also throw acid upon him and his wife due to which his wife got burnt injuries upon mouth, stomach, chest and back. The informant also sustained burnt injuries upon his mouth and back of the body. On bullah raised by informant, his wife and his sons and the villagers namely Mohammed Mian, Bharat Singh etc. came there and saw the occurrence. It has been further alleged that a dispute was going on between the informant and his brother accused Mithu Sah for the land it was decided by Panchayati and since then the informant and his brother accused Mithu Sah were in possession of their land. On the basis of the fardbeyan of the informant recorded by the police instituted a case u/s 341/323 and 324/34 of the IPC. The police after investigation of the case submitted charge sheet u/s 307/326/324/323 and 341 of the IPC against aforesaid accused persons and thereafter the learned court of CJM took cognizance under the aforesaid sections in which the charge sheet was submitted against the accused persons. Thereafter the case was committed to the Court of Sessions and this record has been received on transfer in favour of disposal."

The Sessions Judge found the accused guilty under Section 307 of the IPC and sentenced them to undergo R.I. for 10 years. The accused filed the criminal appeal in the High Court; in which the following order was passed:

"Considering this aspect of the matter, this Court directs that appellant Nos. 1,2 and 3 should pay a sum of Rs.1,000/- each to the informant Kewal Sah within a period of four months failing which they will have to undergo RI for four months. The Trial Court is directed to notice the informant to receive the compensation amount. The appellants will be discharged from the liabilities of their bail bonds after they had

deposited the compensation amount in the Trial Court. The appellants are at liberty to utilize the web copy of this judgment for the purpose of depositing the money within the aforesaid period of four months, in case the Court does not receive certified copy of the judgment".

The informant aggrieved by the above judgment of the High Court has filed this appeal.

Learned counsel for the appellant submits that the present is a case where injuries were caused by acid attack and the High Court committed error in directing payment of only Rs.1,000/- as compensation to the informant Kewal Sah by the accused. It is submitted that the High Court ought to have imposed sufficient compensation to the informant. In the acid attack, two of the PWS suffered grievous injuries i.e. Sheo Shankar Sah & Sanjharina Devi.

Learned counsel for the respondent - accused has submitted that all the persons belong to the same family. It is informed to the Court that the dispute between the accused and the informant has already been settled. Be that as it may, the present being an appeal against the judgment of the High Court arising out of conviction under Section 307, we need to address the submission raised in this appeal.

We are of the view that the amount of Rs.1,000/- as directed by the High Court to be paid to the informant is too meagre. We modify the judgment of the High Court and direct that the accused shall pay to both injured persons namely Sheo Shankar Sah & Sanjharina Devi, an amount of Rs.10,000/- each within two months from today which shall be in addition to amount directed to be paid by the High Court.

The appeal is accordingly disposed of.

.....J.
[ASHOK BHUSHAN]

.....J.
[K.M. JOSEPH]

NEW DELHI;
MAY 3, 2019.

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 (Cr1.) No(s). 7929/2016

(Arising out of impugned final judgment and order dated 01-10-2012 in CRLA No. 156/2000 passed by the High Court Of Judicature At Patna)

KEWAL SAH

Petitioner(s)

VERSUS

THE STATE OF BIHAR & ORS.

Respondent(s)

Date : 03-05-2019 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ASHOK BHUSHAN
HON'BLE MR. JUSTICE K.M. JOSEPH

For Petitioner(s) Mr. Subhro Sanyal, AOR

For Respondent(s) Mr. Nishant Kishore, Adv.
Mr. Karunakar Mahalik, AOR

Mr. Samir Ali Khan, AOR

UPON hearing the counsel the Court made the following

O R D E R

Delay condoned.

Leave granted.

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

Pending application, if any, stands disposed of.

(MEENAKSHI KOHLI)
COURT MASTER(RENU KAPOOR)
COURT MASTER

[Signed order is placed on the file]