

Criminal Appeal (SJ) No. 486 of 2006

Against the judgment of conviction and order of sentence dated 17.03.2006 passed by Sri Om Prakash Pandey, 1st Addl. Sessions Judge-cum-Special Judge, Gumla in G. R. No. 60 of 2001.

Jagarnath Sahu	Appellant
	Versus		
The State of Jharkhand	Respondent

For the Appellant	: Mr. Pandey A. N. Roy, Adv.
For the State	: Mrs. Amrita Kumari, A.P.P.

PRESENT

HON'BLE MR. JUSTICE RAJESH KUMAR

Heard learned counsel for the appellant and learned APP for the State.

2. The appellant has been charged under Sections 452 and 323 of the Indian Penal Code and under Section 3(i)(x) of the SC/ST (Prevention of Atrocities) Act, 1989 and ultimately on conclusion of trial, he has been convicted for the offence under Sections 452 and 323 of the Indian Penal Code and has been sentenced to undergo R.I. for six months for the offence under Section 323 of the Indian Penal Code and to undergo R.I. for three years for the offence under Section 452 of the Indian Penal Code and fine of Rs. 1,000/-. It has been ordered that both the sentences shall run concurrently.

3. Gumla P. S. Case No. 24 of 2001 has been registered on the fardbeyan of the informant Jaimuni Devi (P.W.-1). It has been alleged that on 23.01.2001 at about 4.00 P.M., the present appellant along with three other accused persons entered into the house of the informant and slaps two to three times to her and also used abusive language.

4. Police has filed charge sheet. The cognizance was taken and the case was committed to the Court of Sessions. Charge was framed under the above Sections against the appellant, to which he pleaded not guilty and claimed to be tried.

5. To substantiate the prosecution case, three witnesses have been examined by the prosecution. P. W. -1 Jaimuni Devi, the informant of the case. P. W. -2, Sandhya Oraon and P. W. -3, Etwa Oraon are hearsay witness. Investigating Officer has not been examined in this case. Thus, the conviction is based upon only on the testimony of P. W.-1 (the informant).

It appears that the present appellant was tenant in her house. There was land dispute between the parties. The Court below has disbelieved the evidence of the informant as the same was exaggerated. However, the appellant has been convicted by relying upon the testimony of P. W.-1 to the extent that the present appellant has entered into the house of the informant and slapped her.

6. Learned APP has filed an affidavit by bringing on record that the appellant had died on 02.06.2018.

7. Heard learned counsel for the parties. From perusal of the record, it appears that the appellant has been convicted under Sections 452 and 323 of the Indian Penal Code. However, the incidence is of the year 2001, the trial has been concluded in the year 2006 and the appeal is being heard in the year 2020, the sentencing part of fine amount of Rs. 1,000/- of the judgment of conviction and order of sentence dated 17.03.2006 passed by Sri Om Prakash Pandey, 1st Addl. Sessions Judge-cum-Special Judge, Gumla in G. R. No. 60 of 2001 is, hereby, set aside.

8. In view of Section 394 of the Cr. P. C., the appeal has abated against the appellant and, accordingly the same is, hereby, disposed of.

(Rajesh Kumar, J)