

CASE NO.:
Appeal (crl.) 603 of 2008

PETITIONER:
Abdul Ghaffar & Anr. etc

RESPONDENT:
State of Bihar

DATE OF JUDGMENT: 04/04/2008

BENCH:
S.B. SINHA & P.P. NAOLEKAR

JUDGMENT:
J U D G M E N T
NON-REPORTABLE

CRIMINAL APPEAL NO 603 OF 2008
[arising out of Special Leave Petition (Crl.) No.479 of 2007]

P.P. NAOLEKAR, J.

1. Leave granted.
2. On 12.12.2005, an FIR was registered at Turkaulia P.S., District East Champaran, Bihar on the basis of a complaint lodged by Vinay Kumar Sharma. As per the said FIR, at about 1 o'clock in the afternoon he along with his brothers and nephew Ajay Sharma reached the land which belongs to his family. After some time, the accused-appellants, namely, Abdul Gaffar, Abdul Khair, Banaras Rai with other accused persons named in the FIR along with 150 people reached the fields where the complainant party was present, with arms and ammunition. Manan Dewan and Alauddin Dewan ordered their men to kill the complainant and his family members. On this, Azhar Sah fired with a country-made pistol, which struck on the head of the complainant. Then Abdul Gaffar, Abdul Khair and Banaras Rai gave beatings to Ajay Sharma, nephew of the complainant with an iron rod and a lathi, which ultimately resulted in his succumbing to the injuries sustained by him. The FIR further alleged the participation of Abdul Khair of having caused injury to Loknath Sharma, brother of the complainant, with an iron rod.
3. As per the appellants, they are the owners of the lands measuring 75 bighas in village Chilrawan, District East Champaran, Bihar, as these lands were part of the land settled by Betia Raj with the ancestors of the appellants and they had mortgaged the property in the year 1915. After the period of 60 years, under the Bihar Money Lenders Act, the said lands would revert back to the appellants and their family members. It is a bone of contention of the appellants that on the relevant date they were in possession of the property and it was the complainant party which had tried to take forcible possession over the land and that is how the incident took place in which five members of the appellants' family were shot dead and several others, namely, Alauddin, Mohd. Siraj, Banaras Rai, Zainuddin Sah, Abdul Ghaffar and Narayan Roy were badly injured by use of firearms. The appellants contend that they had informed the police on 12.12.2005 itself that the Sharma brothers including the District Judge who is one of the brothers had planned to take over possession of the property and had threatened to kill the appellants like birds.
4. It is contended by the learned counsel for the appellants that the appellants have been falsely implicated as the other party was the attackers and in the process of their attack five persons died and a number of other persons were seriously injured.

5. On a plain reading of the FIR which was lodged on the same day, i.e. on 12.12.2005, it is apparent that the accused-appellants were named as the persons who had caused serious injuries to Ajay Sharma, nephew of the complainant, who later on succumbed to injuries. When the appellants have been named in the FIR which was lodged immediately after the incident, at this stage we do not find any infirmity in the impugned order of the High Court and that of the Sessions Court whereunder the accused-appellants were not released on bail.

6. For the aforesaid reasons, we do not find any merit in the appeal. It is, accordingly, dismissed.

JUDIS