

Present :

Mr. Justice A.K.M. Asaduzzaman

And

Mr. Justice Md.Ashrafal Kamal

Criminal Revision No.1260 of 2010.

Babu Prang

.....Appellant.

-Versus-

The State

.....Respondent.

Mr. Md. Eunus Ali Akond, Advocate

....For the appellant.

Mr. Bashir Ahmed, A.A.G.

..... For the respondent.

Heard and Judgment on 20<sup>th</sup>. June,2011.

A.K.M.Asaduzzaman,J.

This rule was issued calling upon the opposite party to show cause as to why the judgment and order dated 23.08.2010 passed by the Special Judge, Pabna, in Criminal Appeal No.46 of 2002 dismissing the appeal and confirming the judgment and order of conviction and sentence dated 27.10.2002 passed by the

Additional District Magistrate, Pabna convicting the accused petitioner under section 143/447/325/323/307 of the Penal Code and sentencing him to suffer rigorous imprisonment for 5 years with a fine of Tk. 4,000/- in default to suffer for 2 months more should not be set aside.

Prosecution case, in short, inter alia, is that the informant Md. Akter Hossain on 25.2.1998 at about 20.15 hours lodged a FIR with the Ishwardi police station Pabna alleging inter alia that his nephew namely Army Constable Khairul Islam and his full brother Khairul Alam Khan and Md. Biplob Khan all sons of Abdul Hafiz Khan of village Shekerchak, police station Ishwardi, District- Pabna, they are working in their own land suddenly (1) accused (1) Md. Azizul Prang, (2) Aksed Prang, (3) Babu Prang, (4) Anowar Prang (5) Arman Prang,(6) Anisur Prang (7) Alam Prang (8) Abdul Prang, all sons of late Shahadat Hossain Prang of village- Arambaria (9) Selim Prang, son of Ahad Ali, all of village- Shekerchak, police station Ishwardi, District- Pabna attacked victims and physically assaulted with Iron rod, Bambo Lathi etc. and on the victims hue and cry the witnesses coming in the place of occurrence namely (1) Akteruzzaman, son of late Abdus Sattar, (2) Md. Haidul Prang (3) Md. Anowar Prang, both sons of Md. Rahamat (4) Ekram Kha, son of late Nayan Khan all

of village Shekerchak, P.S. Ishwardi, District- Pabna when the accused fled away, hence the case.

After investigation police submitted a charge sheet on 06.04.1998 under section 143/447/325/323/307 of the Penal Code against the petitioner and others.

Thereafter the case was transmitted to the Court of Additional District Magistrate, Pabna for trial wherein a charge was so framed against the petitioner and another 8 under section 143/447/325/327/307 of the Penal Code wherein they pleaded not guilty and claimed to be tried.

During trial the prosecution examined as many as 12 witnesses and defence examined none.

After considering the evidences and hearing the parties the learned Additional District Magistrate, Pabna convicted the petitioner and sentenced them as stated above.

Being aggrieved there against the petitioner preferred Criminal Appeal No.46 of 2002 before the learned District Judge, Paban and the matter was heard by the learned Special Judge, Pabna, who by the impugned judgment dismissing the

appeal confirm the judgment and order passed by the Additional District- Magistrate, Pabna.

Being aggrieved by the said order the petitioner obtained the instant rule on filing a revisional application.

We have heard both the sides and examined the records and the impugned judgment.

It appears that the learned Special Judge, Pabna after evaluating the deposition of the prosecution witnesses has come to a clear finding that the petitioner has committed the alleged offence and as such convicted him.

On perusal of the impugned judgment and considering the deposition of the prosecution witnesses, we find that there is no illegality in the judgment, however considering the gravity of the offence as well as the tenure of the custody of the petitioner, we like to modify the sentence awarded to the petitioner and reduced to his sentence to the period undergone with fine of Tk.1000/-, in default to suffer imprisonment for 2(two) months more.

In the result the rule is discharged with modification of sentence as stated above.

Send down the L.C. R. along with the judgment to the courts below.

Md. Ashrafal Kamal, J.

I agree.