

**HIGH COURT OF TRIPURA
AGARTALA**

Crl. Rev. P.58 of 2023

Sri Goutam Debnath and ors.

..... Petitioner(s)

Versus

The State of Tripura

..... Respondent(s)

For Petitioner(s)	:	Mr. Subrata Sarkar, Sr. Advocate. Ms. V. Poddar, Advocate.
For Respondent(s)	:	Mr. Raju Datta, P.P. Mr. S. Ghosh, Addl. P.P.
Date of hearing and Delivery of Judgment	:	24.07.2024.
Whether fit of reporting	:	NO.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

JUDGMENT AND ORDER(ORAL)

This present revision petition has been filed under Section 397(1) of the Code of Criminal Procedure, 1973, read with Section 401 of Code of Criminal Procedure against the Judgment and Order of conviction and sentence dated 16.10.2023, passed by the learned Addl. Sessions Judge, Gomati Judicial District, Udaipur in connection with case No. Crl. Appl. No.08 of 2022 sentencing each of the petitioners to pay a fine of Rs.1000/- and in default to suffer R.I. for one month for commission of offence punishable under Section 323 read with section 34 of I.P.C. Further, the petitioner No.1, namely, Gautam Debnath has been sentenced to suffer R.I. for 1(one) year and to pay a fine of Rs.5,000/-

for commission of offence under Section 325 of IPC and in default of payment of fine, to suffer R.I. for 5(five) months.

[2] The brief fact of his case is that on 09.03.2020 at about 10.00 A.M. while the informant-victim Shipul Debnath was returning home, the accused petitioners herein assaulted the informant with Dao, Lathi and Shabal (crowbar). When the informant cried for help his sister-in-law and wife arrived at the spot. The informant also alleged that gold chain was snatched away from the neck of his sister-in-law and Rs.3500/- was snatched away from the pocket of the informant. It is also alleged that the accused-petitioners herein inflicted grievous bleeding injuries to the sister-in-law and wife of the informant and threatened them of dire consequences if they inform police about the incident.

[3] In connection to this incident, the O/C of Kakraban PS, Gomati received the ejahar on 15.03.2020 and registered a case vide Kakraban PS Case No. 2020/KKB/023 under Sections 341/326/384/506/34 of IPC. The O/C then endorsed the case to the ASI of police namely Ajut Miah for investigation.

[4] After completing the process of investigation, the 2nd I.O. laid down the charge sheet vide Kakraban PS C/S No. 42 of 2020 dated 31.07.2020 under Sections 341/323/325/506/34 of IPC against four accused persons i.e. the petitioners herein.

[5] The learned JMFC, Udaipur, Gomati District received the charge sheet on 14.08.2020 and the learned CJM, Gomati District, Udaipur took cognizance of offence under Sections 341/323/325/506/34 of IPC on

21.11.2020 and issue process upon all the accused persons vide case No. PRC(WP) No.113 of 2020. On 25.01.2021 the learned trial Court has framed charges against the accused persons under Sections 341/323/325/34 of IPC to which they pleaded not guilty and claimed to be tried.

[6] The prosecution side has examined as many as 12(twelve) witnesses. After closure of the prosecution evidences, the accused persons were examined under Section 313 of Cr.P.C. to which they claimed to be innocent and also declined to adduce any DWs on their behalf.

[7] Thereafter, hearing both sides the learned Trial Court passed the impugned judgment dated 16.07.2022 and convicted the accused persons (petitioners herein) to pay a fine of Rs.1,000 with default stipulation for commission of offence punishable under Section 323 /34 of IPC. Further, the accused petitioner No.1, namely, Gautam Debnath has been sentenced to suffer R.I. for 1(one) year and to pay a fine of Rs.5,000/- for commission of offence under Section 325 of IPC with default stipulation.

[8] Aggrieved thereby, the petitioners herein preferred an appeal vide CrI. Appl. No.08 of 2022 before the learned Addl. Sessions Judge, Gomati Judicial District, Udaipur. But the learned Court below vide Judgment dated 16.10.2023 upheld the Judgment and conviction of sentence dated 16.07.2022.

[9] Being aggrieved, the petitioners herein have filed this revision petition for setting aside and quashing the Judgment and Order dated 16.10.2023.

[10] Heard Mr. Subrata Sarkar, learned Sr. counsel assisted by Ms. V. Poddar, learned counsel appearing for the petitioners as well as Mr. Raju Datta, learned PP alongwith Mr. S. Ghosh, learned Addl. P.P. appearing for the State-respondent.

[11] Mr. S. Sarkar, learned Sr. counsel submits that instant petitioners are in no way involved in the alleged incident and the informant had lodged the complaint against them in order to harass him and malign in the society. The I.O. did not seize any weapon of the offence during the investigation. The incident happened due to land dispute and relates to work and wages.

[12] Mr. Raju Datta, learned P.P., appearing for the State-respondents countered the said argument of the learned Sr. counsel appearing for the appellants and submits that the Judgment and Order as passed by the Court below is just and proper and needs no further interference.

[13] Heard and perused the evidence on record.

[14] Sri Sipul Debnath, P.W.1 (informant) in his deposition before the Court below stated that the accused persons are his relatives. While he alongwith other labourers, started working in his paddy land under MREGA, his cousin, accused, Atul Debnath came there and raised objection saying that he had not been given MREGA work. It is also stated

that due to his objection, they stopped working and went for working in the land of one Ashit Mohan Sukla Das (P.W. 3). In his deposition, P.W. 3 stated that Shipul and accused Atul had altercation between them on the issue of MREGA work.

[15] It is seen from the record that parties involved herein are relatives and the incident occurred due to work and wages. The incident does not appear to be pre-planned or pre-meditated and out of anger, the said incident occurred. As such, this Court is of the opinion that the sentence of R.I. for 1(one) year given by the Court below to the accused petitioner No.1 herein for commission of offence under Section 325 of IPC is on the higher end and as such, the same needs to be modified and it is converted into fine only. However, the fine amount to be paid by accused-petitioner No.1 herein is enhanced to Rs.10,000/- instead of Rs.5,000/- as fixed by the Court below to be paid to the victims. Other accused-petitioners shall also pay the fine amounts as fixed by the Court below accordingly. Thus, the Judgment and Order as passed by the Court below is modified to the extent as indicated above and the instant petition is party allowed and accordingly, the same is disposed of.

As a sequel, stay if any stands vacated. Pending application(s), if any also stands closed.

JUDGE

Sabyasachi G.

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GHOSH

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