

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1183 of 2013

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1. Parmila Devi Wife Of Anil Mahto Resident Of Village- Dhanbigha, P.S.- Warsaliganj, District- Nawada
 2. Shiv Dayal Mahto S/O Late Deoki Mahto Resident Of Village- Dhanbigha, P.S.- Warsaliganj, District- Nawada
 3. Anil Mahto @ Anil Mahton S/O- Shiv Dayal Mahto Resident Of Village- Dhanbigha, P.S.- Warsaliganj, District- Nawada
 4. Kaushal Mahto @ Kaushal Mahton S/O Shiv Dayal Mahto Resident Of Village- Dhanbigha, P.S.- Warsaliganj, District- Nawada

.... Petitioner/s

Versus

1. The State Of Bihar
2. Mahendra Prasad Mehata, son of Sitaram Mehata, resident of village- Dharmarayachak, P.S. Lakhsarai, District-Lakhsarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar Verma, Advocate.
For the Respondent/s : Mr. Navin Kumar Pandey, APP.
For the Opposite Party No.2 : Mr. Arjun Prasad No.1, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
C.A.V ORDER

5 24-12-2013 Each of petitioners Parmila Devi, Shiv Dayal Mahto, Anil Mahto @ Anil Mahton, Kaushal Mahto @ Kaushal Mahton along with Kishori Prasad (not petitioner) were convicted for an offence punishable under Section 498A of the IPC and sentence to undergo R.I. for one year as well as slapped with fine appertaining to Rs.2,000/-, S.I. of four months as well as slapped with fine of Rs.1,000/- under Section of the 3 D.P. Act, S.I. for three months and fine of Rs.2,000/- under Section 4 of the D.P.Act while accused Kishori Prasad (not petitioner) was further convicted and sentenced S.I. for two years and slapped with fine of Rs.1,000/- under Section 494 of the IPC with a further direction to run the

sentences concurrently vide judgment dated 23.09.2011 passed by Sub Divisional Judicial Magistrate, Lakhisari in Complaint Case No.133C of 2004 which was challenged on behalf of all of them in Cr.Appeal No.101 of 2011 before the learned Sessions Judge, Munger and the same was dismissed vide judgment dated 15.04.2013 by the learned Additional Sessions Judge, Lakhisarai.

2. During course of argument, the learned counsel for the petitioners placed judgment dated 09.10.2013 passed in Criminal Revision No.700 of 2013 filed on behalf of one of the convict Kishori Prasad and putting reliance thereupon it has been submitted that after taking into account the infirmity, inconsistency, discrepancy as well as illegality committed by the successive courts, aforesaid revision was allowed on its merit by setting aside the concurrent finding of the learned Lower Court. It has also been submitted that because of the fact that petitioners have subsequently surrendered and preferred instant revision, therefore, there could not be possibility of analogous hearing. It has further been submitted that there happens to be delay in filing the Cr.Revision and for that I.A.No.1658 of 2013 has been filed. As such, it has been submitted that after condoning delay, revision be allowed.

3. Learned Additional P.P. fairly concedes while learned counsel for the Opposite Party No.2 vehemently opposed and submitted that there happens to be intentional delay in filing

instant revision petition and the grounds for condonation of delay so made under I.A. is not at all convinceable, hence instant revision is fit to be rejected.

4. After going through the grounds enumerated under I.A.No.1658 of 2013, the delay is condoned and on account thereof I.A.No.1658 of 2013 is allowed.

5. It is further evident from the judgment dated 09.10.2013 passed in Cr.Revision No.700 of 2013, that while allowing the same, all the relevant as well as legal points have been taken into consideration then thereafter the aforesaid revision was allowed by striking down the concurrent finding on merit, the case of the petitioners are found on similar track. The concurrent finding recorded by the successive learned Lower Courts recording guilt followed with sentence of all the petitioners are set aside. Petition is allowed. Petitioners are under custody, hence are directed to be released forthwith, if not wanted in any other case.

(Aditya Kumar Trivedi, J)

Patna High Court,
Dated 24th December, 2013
Brajesh Kumar.