

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.299 of 2014

Arising Out of PS.Case No. -null Year- null Thana -null District- LAKHISARAI

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1. Shiv Balak Yadav, son of Haro Yadav,
 2. Amba Devi, wife of Raj Kumar Yadav,
 3. Raj Kumar Yadav, son of Peru Yadav,
 4. Jagdeo Yadav, son of Haro Yadav,
 5. Chandar Yadav, son of Peru Yadav, all are resident of village- Karauta, P.S. and District-Lakhisarai

.... Petitioner/s

Versus

1. The State of Bihar
2. Shanti Devi, wife of Rajo Yadav, resident of village- Karauta, P.S. and District-Lakhisarai

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bhola Prasad, Advocate

For the Respondent/s : Mr. Parmanand Pd. Sahi, Advocate

Mr. Mustaque Alam, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 13-08-2015

The Petitioners seek revision of the judgment of conviction dated 21.01.2014 passed by the *Ad hoc* Additional Sessions Judge, 5th, Lakhisarai, in Cr. Appeal No.153 of 2007 arising out of the judgment dated 12.11.2007 passed by the Sub-Divisional Judicial Magistrate, Lakhisarai, in Trial No.1441 of 2007 arising out of Lakhisarai P.S. Case No.189 of 1997.

Learned counsel for the Petitioners has produced Demand Draft of ₹10,000/- (ten thousand) bearing no.674311 dated 24.07.2015 in favour of the Opposite Party No.2, which the counsel for the Opposite Party No.2 receives and signs in the margin of the

order-sheet in token of receipt of the same.

It appears that the Appellate Court has not considered that the non-examination of the Informant was fatal to the prosecution case. More so, PW 4 also admitted before the villagers that she had reached the PO after the occurrence and the manner of occurrence has been disapproved by the Doctor (PW 5) which makes the prosecution case untrustworthy. Non-consideration of the aforesaid is serious lacunae.

In view of such, the judgment of conviction dated 21.01.2014 passed by the *Ad hoc* Additional Sessions Judge, 5th, Lakhisarai, in Cr. Appeal No.153 of 2007 as well as judgment dated 12.11.2007 passed by the Sub-Divisional Judicial Magistrate, Lakhisarai, in Trial No.1441 of 2007 arising out of Lakhisarai P.S. Case No.189 of 1997 are hereby set aside and the Petitioners are acquitted of their respective charges.

The Petitioners, who are on bail, are discharged from the liabilities of their respective bail bonds.

In the result, the revision application is allowed.

(Anjana Prakash, J)

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