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IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No. 335 of 2004

Arising out of P.S. Case No. -null Year- null Thana -null District- MUZAFFARPUR

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Ramashray Bhagat @ Ramashray Bhagat, Son of Sri Surya Balli Prasad, Resident of Village-Lohati, P.S.-Kateya, District-Gopalganj, at present of Mohalla-Kothua Paigamberpur, P.S.-Ahiyapur, District-Muzaffarpur, presently posted as Branch Manager, Vaishali Khetriya Gramin Bank Hardi, P.S.-Kathiaya, District-Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Bhuneshwar Sah, Son of Late Batahu Sah, Resident of Village-Rampur, P.S.-Hathauri, District-Muzaffarpur.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Hari Kishore Thakur, Adv.
For the Respondent/s : Mr. APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH
ORAL JUDGMENT
Date: 17-07-2015

The Petitioner seeks revision of the judgment of conviction dated 28.05.2004 passed by the Additional Sessions Judge-VIII, Muzaffarpur in Criminal Appeal No. 18 of 2003, by which he has affirmed the judgment dated 07.04.2003 passed by the Judicial Magistrate, 1st Class, Muzaffarpur in Complaint Case No. 917 of 1997 (Tr. No. 389 of 2003), by which he has convicted the Petitioner under Sections 406 and 420 IPC and sentenced him to undergo R.I. for three months under each count.

It has been submitted on behalf of the Petitioner that even though P.W. 1 has stated that he had taken loan from Bank Manager and given it to the Petitioner but

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there is no support in the Complaint Petition or by the Complainant in this regard. P.W. 2 has stated that the money was given to the Bank Manager at the Bank and not at the shop. A Defence Witness was also examined who stated that the Bank receipts had been granted but these facts were not considered by the Appellate Court and hence it has committed a gross error in law and facts.

Considering such aspects of the matter, the judgment of conviction dated 28.05.2004 passed by the Additional Sessions Judge-VIII, Muzaffarpur in Criminal Appeal No. 18 of 2003, by which he has affirmed the judgment dated 07.04.2003 passed by the Judicial Magistrate, 1st Class, Muzaffarpur in Complaint Case No. 917 of 1997 (Tr. No. 389 of 2003) is, hereby, set aside so far as the Petitioner is concerned.

The application stands allowed.

(Anjana Prakash, J.)

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