

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No. 499 of 2008

Arising out of P.S. Case No. -0 Year- null Thana -null District-
MUNGER

Subhash Singh, Son of Late Jino Singh, Resident of Village-Bhalhar, P.S.-
Dharhara, District-Munger.

.... Petitioner/s

Versus

The State of Bihar.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Ajit Kumar Singh, Adv.

For the Respondent/s : Mr. C. Sen Pd. Singh, Adv.

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 17-07-2015

The Petitioner seeks revision of the judgment of conviction dated 12.03.2008 passed by the Additional Sessions Judge, F.T.C.-II, Munger in Criminal Appeal No. 226 of 2003, by which he has affirmed the judgment dated 02.09.2003 passed by the Judicial Magistrate, 1st Class, Munger in G.R. No. 297 of 1999 (Tr. No. 192 of 2003), by which he has convicted the Petitioner under Sections 323 and 341 IPC and sentenced him giving benefit under Section 3 of Probation of Offender Act with due admonition.

The case of the prosecution is that the parties were agnates and there was a title suit going on between them. On the date of occurrence the accused persons entered his house and assaulted him generally.

It has been submitted on behalf of the Petitioners that on going through the evidence one finds that P.W. 1 Mohan Singh who was examined as an eye-witness has conceded that there was no vital injury on the injured. P.W. 2 is a witness who simply stated that the Petitioner is an unsocial element. P.W. 3, the only independent witness has

been declared hostile. P.W. 4 is the son of the Informant who stated that there was a counter-case and a title suit was pending between the parties. P.W. 5 has deposed about the motive for the occurrence.

The Petitioner happens to be a Government Employee and his conviction will adversely affect his pensionary benefits. None of the Courts below considered the fact that most of the witnesses attempted to conceal the fact of counter-case as also land dispute which makes their evidence untrustworthy.

Having gone through the records of the case, I am inclined to hold that the Court below has committed gross error both in law and on facts.

Hence, the judgment of conviction dated 12.03.2008 passed by the Additional Sessions Judge, F.T.C.-II, Munger in Criminal Appeal No. 226 of 2003, by which he has affirmed the judgment dated 02.09.2003 passed by the Judicial Magistrate, 1st Class, Munger in G.R. No. 297 of 1999 (Tr. No. 192 of 2003) is, hereby, set aside so far as the Petitioner is concerned.

The Application stands allowed.

(Anjana Prakash, J.)

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