

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.133 of 2015

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1. Sanjay Kumar, son of Sri Shiv Shankar Prasad, Resident of
Village- Admapur, P.S.- Sheosagar, District- Rohtas (Bihar)
..... Petitioner

Versus

1. The State of Bihar
2. Abhay Kumar Singh Son of Sri Shyam Narayan Singh
3. Vikash Kumar Singh Son of Sri Akhilesh Kumar Singh
4. Shyam Narayan Singh Son of Late Gopal Singh null
5. Ravi Kumar Singh Son of Sri Shyam Narayan Singh
6. Akhilesh Kumar Singh son of Sri Indradeo Singh
7. Ajit Kumar Singh Son of Sri Shyam Narayan Singh
8. Ashok Kumar Singh son of Late Shree Singh
2 to 8 are Resident of Village- Admapur, P.S.- Sheosagar, District-
Rohtas (Bihar)

..... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Kumar, Advocate
For the Respondent/s : Ms. Pronoti Singh, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

JUDGMENT AND ORDER

ORAL

Date: 10-11-2016

The petitioner is the informant of Shivsagar Police
Station Case No. 96 of 2008, which gave rise to Sessions Trial
No. 167 of 2009, for the offence punishable under Sections
147, 148, 323, 379, 307 and 504 of the Indian Penal Code. He
is aggrieved by the judgment and order passed by the learned
5th Additional Sessions Judge, Rohtas, at Sasaram, dated
21.11.2012, in the said Sessions Trial No. 167 of 2009,
whereby and whereunder he has found the respondent nos. 2
to 8 not guilty of the offence punishable under Section 147,
148, 307 and 379 of the Indian Penal Code and they have
accordingly been acquitted of the charges under the said

Sections. Learned Trial Court has, however, held them guilty of the offence punishable under Sections 323 of the Indian Penal Code.

2. After having held the respondents 2 to 8 guilty of the offence punishable under Section 323 of the Indian Penal Code, the learned Trial Court, instead of imposing sentence of imprisonment, has released them by giving them benefit of Sections 4 of the Probation of Offenders Act, 1958.

3. Heard Mr. Rakesh Kumar, learned Counsel for the petitioner and Ms. Pronoti Singh, learned Additional Public Prosecutor, representing the State.

4. It has been submitted on behalf of the petitioner that despite there being enough evidence on record adduced at the trial to prove and establish, beyond all reasonable doubts, the charge of offence punishable under various other sections of the Indian Penal Code, i.e., Sections 307, 379, 504, 147 and 148 of the Indian Penal Code, learned Trial Court has wrongly held them not guilty of the same and acquitted the respondents 2 to 8 of the said charges. He has also submitted that the Court below, without properly applying the provisions of Section 4 of the Probation of Offenders Act, 1958, has given such benefit to the respondents 2 to 8, without calling for any report of the Probation Officer concerned in this case.

5. So far as submission made on behalf of the

petitioner that acquittal of the respondents 2 to 8, as recorded by the learned Trial Court, for the offences punishable under Sections 307, 379, 504, 147 and 148 of the Indian Penal Code, is not sustainable because of improper appreciation of evidence on record, I do not find any force.

6. On perusal of the impugned judgment and order, I find that the evidence adduced at the trial have been elaborately discussed by the learned Trial Court. The findings, on due appreciation of such evidence, in my view, are not perverse. A judgment of acquittal recorded by a Trial Court can be upset only if the view taken by the learned Trial Court cannot be treated to be reasonably possible view. This is not the situation in the present case. On the ground that other view is also possible on the basis of the evidence on record, judgment and order of acquittal by the Trial Court cannot be interfered with in revisional jurisdiction of the Court as Section 397 of the Code of Criminal Procedure, 1973, has its own limitations which can be invoked only in exceptional circumstances to prevent grave injustice or miscarriage of justice. It is normally exercised when an order under challenge suffers from patent illegality, lack of jurisdiction or otherwise perverse. None of these grounds are available in the present case. The findings recorded by the Court below do not need interference in the present proceeding.

7. Coming to the grievance of the petitioner

against release of respondents 2 to 8 by giving them benefit of the provisions of the Probation of Offenders Act, 1958, I do not find any illegality.

8. Section 3 of the Probation of Offenders Act, 1958, enables a Court to release a person guilty of having committed offence punishable under Section 379, 380, 381, 404, 420 of the Indian Penal Code or any offence punishable with imprisonment for more than 2 years to release him on probation of good conduct under Section 4 of the Probation of Offenders Act, 1958, after due admonition. For invoking the provisions of Section 3 of the Probation of Offenders Act, 1958, no procedure, as prescribed under Section 4 of the Act, is required to be followed mandatorily, i.e., calling for the report of the Probationer Officer etc.

9. I accordingly do not find any infirmity in the judgment and order impugned.

10. This application is accordingly dismissed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-c

AFR/NAFR	NAFR
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