

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.255 of 2015

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

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1. Ram Bilas Mandal son of Sarju Mandal
2. Manoj Mandal son of Mahendra Mandal
3. Anirudh Mandal son of Mohan Mandal
4. Ashok Mandal son of Mohan Mandal
5. Balmukund Mandal son of Chani Mandal
6. Mishri Mandal son of Fakir Mandal
7. Ishwar Mandal son of Fakir Mandal
8. Harilal Mandal son of Sarju Mandal
9. Kailash Mandal son of Sarju Mandal
10. Sita Ram Mandal son of Sarju Mandal
11. Mohan Mandal son of Late Biranchi Mandal
12. Horil Mandal son of Late Brahmdeo Mandal
13. Mahendra Mandal son of Late Ram Baran Mandal
14. Govind Mandal son of Ishwar Mandal
15. Naresh Mandal @ Buchai Mandal son of Late Ram Baran Mandal

All residents of Village - Babupar, Police Station - Sabour, District - Bhagalpur.

.... Petitioners

Versus

1. The State of Bihar

.... Respondent

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Appearance :

For the Petitioners : Mr. Deepak Kumar Sinha, Advocate
For the State : Mr. Satyavarat Verma, APP

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

JUDGMENT AND ORDER
ORAL

Date: 20-12-2016

Heard learned Counsel for the petitioners and
learned Additional Public Prosecutor representing the State.

2. Fifteen petitioners have assailed the judgment
and order, dated 17.01.2015, passed, by the learned Ad hoc
Additional Sessions Judge I, Bhagalpur, in Sessions Trial No.



1154 of 2005 (Trial No. 17 of 2013), whereby they have been convicted for the offence punishable under Section 147 of the Indian Penal Code and sentenced to undergo simple imprisonment for a period of one year.

3. Learned Counsel appearing on behalf of the petitioners has submitted that considering the genesis of occurrence and the fact that the petitioners had no criminal antecedent, the learned Court below ought to have given benefit of section 3 of the Probation of Offenders Act, 1958.

4. There is no dispute to the contention made on behalf of the petitioners that there is no previous conviction against the petitioners.

5. Section 3 of the Probation of Offenders Act, 1959, reads thus:

“3. Power of court to release certain offenders after admonition.—When any person is found guilty of having committed an offence punishable under section 379 or section 380 or section 381 or section 404 or section 420 of the Indian Penal Code, (45 of 1860) or any offence punishable with imprisonment for not more than two years, or with fine, or with both, under the Indian Penal Code, or any other law, and no previous conviction is proved against him and the court by which the person is found guilty is of opinion that, having regard to the circumstances



of the case including the nature of the offence, and the character of the offender, it is expedient so to do, then, notwithstanding anything contained in any other law for the time being in force, the court may, instead of sentencing him to any punishment or releasing him on probation of good conduct under section 4 release him after due admonition.

Explanation.—For the purposes of this section, previous conviction against a person shall include any previous order made against him under this section or Section 4.”

6. Section 147 of the Indian Penal Code provides for punishment with imprisonment for a term which may extend to two years or fine or with both.

7. In such circumstance, the benefit of Section 3 of the Probation of Offenders Act, 1958, could have been given to the petitioners.

8. Accordingly, while upholding the conviction of the petitioners and recording admonition, instead of sentencing them to punishment, it is directed that they be released on probation of good conduct under Section 4 of the Probation of Offenders Act, 1958.

9. It is accordingly directed that they shall be released on furnishing a bond of a sum of Rs. 10,000/- for



maintenance peace and good behaviour for a period of one year.

10. This application stands disposed of accordingly.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
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