

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.904 of 2016

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

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Md. Helaluddin Son of Late Badruddin, resident of Village-Baturbari, P.S. -
Tarabari, District- Araria.

.... Petitioner

Versus

1. State of Bihar
2. Bibi Abeda Khatoon , D/o Salauddin, resident of Village: Bhagwanpur,
Bargachhi, P.S.: Jokihat, District: Araria.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Bikramdeo Singh, Advocate
Mr. Mukesh Kumar Rana, Advocate
For the State : Mr. Mukeshwar Dayal, APP
For respondent no. 2 : Mr. Krityanand Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 05-10-2016

I. A. No. 1822 of 2016.

This interlocutory application under Section 5 of the
Limitation Act has been filed for condonation of delay in filing the
revision application.

2. The revision application has been filed on
08.09.2016 against the appellate order dated 18.10.2008 passed in
Cr. Appeal No. 22/85/1995 by the learned 1st Additional Sessions
Judge, Araria.

3. It is contended by the learned counsel appearing



for the petitioner that the petitioner being a poor person had gone outside the State for earning his livelihood after handing over the brief to the concerned advocate for doing *pairavi* and arguing the appeal on his behalf. However, after the appeal was dismissed, no information was given by the counsel to whom the brief was handed over, as a result of which the appeal could not be filed within the stipulated period. It is also contended that the matter has already been compromised between the parties and the victim is residing with the petitioner.

4. Mr. Krityanand Jha, learned counsel for the respondent no. 2 has also submitted that due to intervention of common friends and well-wishers and an amicable settlement had been arrived at between the petitioner and respondent no. 2, they resolved all the disputes.

5. Regard being had to the submission made by the learned counsel for the parties, the delay caused in filing the revision application is condoned.

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6. This revision application under Sections 397 and 401 of the Code of Criminal Procedure has been filed against the judgment dated 18.10.2008 passed by the learned 1st Additional Sessions Judge, Araria in Cr. Appeal No. 22/85/1995 by which the



appellate court has dismissed the appeal preferred against the order dated 28.11.1995 passed by the learned Judicial Magistrate, 1st Class, Araria in Case No. 808-C of 1993 by which the petitioner has been convicted under Sections 323 and 324 of the Indian Penal Code (for short 'IPC') and sentenced to undergo simple imprisonment for six months for the offence punishable under Section 323 of the IPC and simple imprisonment for two years for the offence punishable under Sections 324 of the IPC. However, both the sentences have been directed to run concurrently.

7. Pursuant to the order dated 03.10.2016 passed by this Court, an affidavit has been filed on behalf of respondent no. 2 wherein it has been stated that owing to some differences, a complaint petition was filed against the petitioner vide Complaint Case No. 808 C of 1993. However, after final decision of the case, mutual relationship between respondent no. 2 and the petitioner was restored and both of them are living together since 2009. It has further been stated that since respondent no. 2 is living with her husband and there is no dispute between them and respondent no. 2 does not intend to proceed with the case.

8. Respondent no. 2 Bibi Abeda Khatoon is also present in the Court. Mr. Krityannad Jha, learned counsel has identified her. On query, respondent no. 2 has stated that due to

some differences, she had filed a complaint against her husband. However, the disputes have already been resolved and they are living together since 2009 with their son Md. Gufran, who is aged about 22 years. Respondent no.2 has stated that in the interest of family, the petitioner should be released from custody and she does not intend to proceed with the case any more.

9. Mr. Mukeshwar Dayal, learned counsel for the State has submitted that in view of the compromise arrived at between the parties even at this stage, this Court may set aside the impugned judgment of conviction and order of sentence.

10. I have heard respective counsel for the parties and respondent no. 2 in person.

11. The alleged occurrence is of the year 1993. The offences under Sections 323 and 324 of the IPC under which the petitioner has been convicted, were compoudable in nature when the occurrence took place.

12. Considering the submissions made at the Bar, impugned judgment dated 18.10.2008 passed by the learned 1st Additional Sessions Judge, Araria in Cr. Appeal No. 22/85/1995 and judgment of conviction and order of sentence dated 28.11.1995 passed by the learned Judicial Magistrate, 1st Class, Araria in Case No. 808-C of 1993 are set aside.

13. Consequently, the revision application is allowed. The petitioner is acquitted of the charges under Sections 323 and 324 of the IPC and is directed to be released forthwith.

(Ashwani Kumar Singh, J.)

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AFR/NAFR	NAFR
CAV DATE	...
Uploading Date	06.10.2016
Transmission Date	06.10.2016