

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.725 of 2014

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

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1. Nripendra Kumar son of Late Srichand Sinha Resident of Quarterno.- A/36,
Vijay Nagar, P.S.- Patrakar Nagar (Kankarbagh), District- Patna-20

.... Petitioner/s

Versus

1. The State of Bihar
2. Sita Sharan Rai Son of Late Ram Kishun Rai
3. Bhushan Rai Son of Sita Sharan Rai
4. Arjun Rai Son of Late Ram Kishun Rai
5. Bishun Dayal Rai Son of Ram Dayal Rai
6. Manohar Rai Son of Arjun Rai
7. Ram Dayal Rai Son of Sita Sharan Rai
8. Dulari Rai Son of Late Ram Kishun Rai All are resident of village- Chamanchak,
P.S.- Gauri Chak, District- Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satya Ranjan Sinha

For the Respondent/s : Mr. Braj Kishor Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

JUDGMENT AND ORDER

ORAL

Date: 22-12-2016

Heard learned Counsel for the parties concerned.

2. The Opposite Party Nos. 2 to 8 stand convicted of the offence punishable under Sections 147, 385 and 149 of the Indian Penal Code by judgment and order, dated 09.07.2013, passed by learned Judicial Magistrate, 1st Class, Patna, in G. R. No. 3391 of 2009 (Trial No. 228 of 2013), arising out of Ram Krishna Nagar Police Station Case No. 64 of 2009. However, the learned Trial Court, instead of sentencing



them to any punishment, has released them on probation of good conduct under Section 3 of the Probation of Offenders Act, 1958, read with Section 4 of the Act.

3. The grievance of the petitioner, who is the informant of the said case, is that learned Trial Court ought not to have given the said opposite parties benefit of the Probation of Offenders Act, 1958, since they are accused in other criminal cases.

4. Reference has been made in this regard to Complaint Case No. 547(C) of 1999, registered for the offences punishable under Sections 323, 379, 148, 427 read with Section 34 of the Indian Penal Code, which is pending trial before the learned Judicial Magistrate, 1st Class, Patna City, and Phulwarisharif Police Station Case No. 122 of 2006, registered for the offences punishable under Sections 147, 341, 308, 379, 427 of the Indian Penal Code, which is also pending.

5. Upon careful reading of Section 3 of the Probation of Offenders Act, 1958, it can be noticed that the benefit under the said provision can be given to an accused in a circumstance where no previous conviction is proved against him. It is not the case of the petitioner that there was any proof before the learned Trial Court of any previous conviction of Opposite Party Nos. 2 to 8. It is rather case of the petitioner



that they are accused in two cases, as noted above, at least one of which has been filed by the present petitioner himself.

6. In such circumstance, discretion exercised by the learned Trial Court in applying the provisions of the Probation of Offenders Act, 1958, cannot be said to be wholly unjustified, requiring this Court’s interference in revisional jurisdiction as benefit of the provisions under Section 3 of the Probation of Offenders Act, 1958, can be denied if previous conviction is proved.

7. With this observation, this application stands dismissed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
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