

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.982 of 2014

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Ramashish Singh @ Ranjan Yadav, Son of Late Sant Lal Singh, resident of
village- Karwa Hankar, P.S.- Karpi, District- Arwal

.... Petitioner/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. A.K. Thakur, Advocate
Mr. Ravi Ranjan, Advocate
Mr. Shashank Shekhar, Advocate

For the Respondent/s : Mr. Kanhaiya Kishore, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

3 10-11-2016 The petitioner stood convicted of the offence punishable under Sections 353 and 323 of the Indian Penal Code by judgment and order dated 06.03.2014 passed by learned Judicial Magistrate 1st Class, Jehanabad in Trial No. 318 of 2013 arising out of Karpi (Arwal) P.S. Case No. 52 of 2006 (G.R. No. 0727 of 2006) sentenced to undergo simple imprisonment for one year for the offences under Section 353 of the Indian Penal Code with a fine of Rs. 1,000/- and in default of payment of fine, conviction for a further period of one month. For conviction under Section 323 of the Indian Penal Code, learned trial court sentenced the petitioner to undergo three-months simple imprisonment. On an appeal preferred by the petitioner in the court of learned

Sessions Judge, Jehanabad giving rise to Criminal Appeal No. 17 of 2014/18 of 2014, learned Additional Sessions Judge-III, Jehanabad has upheld the judgment of conviction and order of sentence so passed by learned trial court.

The present criminal revision application has been filed under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973(hereinafter referred to as the Code) by the petitioner, being aggrieved by the judgments and orders of conviction and sentence passed by the courts below as indicated above. This is apparent from the two orders, which are being assailed in the present proceeding that there is concurrent finding of fact recorded by both the courts on the point of conviction of the petitioner.

Learned counsel appearing on behalf of the petitioner has not been able to make out a case that the said findings recorded by the courts below are perverse, warranting interference by this Court in revisional jurisdiction. He has, however, submitted that it was mandatory for the courts below to have applied, in view of the nature of the offence under which the petitioner has been convicted, Section 360 of the Code by releasing the petitioner on probation of good conduct or after admonition.

I do not find any merit in the said submission in view of clear provision under Section 19 of the Probation of Offenders Act, 1958, which reads thus:-

“19. Section 562 of the Code not to apply in certain areas.- Subject to the provisions of section 18 and section 562 of the Code shall cease to apply to the States or parts thereof in which this Act is brought into force”

This is not in dispute that the Probation of Offenders Act, 1958 is in force in the State of Bihar. Section 360 of the Code has replaced identical provision existing earlier under section 562 of the Code of Criminal Procedure, 1973. In that view of the matter, I have no hesitation to arrive at a conclusion that Section 360 of Cr. P.C. has no application for the State of Bihar. My view finds support from a recent decision of Supreme Court in case of *Yakub Abdul Razak Menon vs. State of Maharashtra* reported in (2013) 13 SCC page1, at paragraphs 2934 to 2937.

Learned counsel for the petitioner has further submitted that the petitioner has no criminal antecedent and dispute in course of polling for an election is the genesis of occurrence and, therefore, a lenient view ought to have been taken by the courts

below while imposing sentence. He has submitted that there is no likelihood that the petitioner would indulge himself in commission of crime in future.

From the records, it appears that upon rejection of petitioner's appeal, he was taken into custody on 10.11.2014 and subsequently released on bail by virtue of an order passed by this Court on 09.12.2014, in this case.

Considering the submissions as above, while not interfering with the judgment of conviction of the petitioner, I consider it appropriate to modify the sentence of imprisonment by reducing it to the period of custody, which the petitioner has already undergone. The order of sentence stands modified accordingly. The petitioner stands discharged from the liabilities of the bail bond furnished by him before the court below.

(Chakradhari Sharan Singh, J)

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