

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Revision No.672 of 2014**

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Doman Sharma son of late Nirdhan Sharma resident of village Bishanpur,  
P.S. Mufassil , District Khagria.

.... .... Petitioner/s

Versus

1. The State of Bihar.

2. Arjun Sharma

3. Upendra Sharma Both sons of late Sita Ram Sharma .

Resident of Village – Ghushpuri Bishanpur, P.S.-Muffasil, District-  
Khagaria.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Praveen Kumar Agrawal, Adv.

For the State : Mr. Akbar Ali (App)

For the O.P. Nos. 2 and 3: Mr. Vivekanand Singh, Adv.

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

**ORAL ORDER**

3 22-12-2016

Heard the parties.

On the charge of commission of offence, punishable  
under Section 379 read with Section 34 of the Indian Penal Code,  
opposite party Nos. 2 and 3 were put on trial, which arose out of  
Complaint Case No. 775C of 2006. The court of learned Judicial  
Magistrate, Ist Class, Khagaria, by the judgment and order, dated  
27.08.2012, recorded conviction of the said opposite parties and



sentenced them to undergo rigorous imprisonment for a period of six (6) months. The court of learned 1<sup>st</sup> Adhoc Additional Sessions Judge, Khagaria, on appeal, preferred against the said order of conviction and sentence, has reversed the conviction and recorded acquittal of the said opposite parties by judgment and order, dated 17.06.2014, which has been put to challenge in the present criminal revision application filed under Section 397 read with Section 401 of the Code of Criminal Procedure.

The petitioner is the complainant of the said Complaint Case No. 775C of 2006, which gave rise to Trial No. 99 of 2012.

Learned counsel, appearing on behalf of the petitioner, has submitted that the learned appellate Court wrongly interfered with the findings recorded by the learned trial Court without duly appreciating the evidence on record. According to him, the charge of commission of offence, punishable under Section 379 read with Section 34 of the Indian Penal Code, stood proved beyond all reasonable doubt on the basis of oral and documentary evidence adduced at the trial and by misreading the evidence, learned appellate Court has erroneously reversed the finding recorded by the learned trial Court. He has submitted that the finding of the learned trial Court has been reversed on unsound



reasoning that there was dispute between the parties over possession of land from where the articles were allegedly stolen.

I have perused the judgment and order passed by the learned trial Court and that of learned 1<sup>st</sup> Adhoc Additional Sessions Judge, Khagaria. The case of the complainant was based on his claim that there was a *Basgit Purcha* issued in his favour by the revenue authorities from where the accused persons had lifted few sacs of wheat and two bags containing mustered seeds. At the trial, evidence came to be adduced to the effect that the petitioner was already having three to four bighas of land, whereas *Basgit Purcha* is issued only in favour of the landless people.

Considering this aspect and the fact that there was serious dispute between the parties over possession with respect to land in question, learned 1<sup>st</sup> Adhoc Additional Sessions Judge, Khagaria, *vide* its judgment, dated 17.06.2014, had reversed the judgment of conviction. I do not find any legal infirmity requiring this Court's interference in exercise of revisional jurisdiction. The view taken by the learned appellate Court is a reasonably possible view. If two views are possible and one view has been taken in favour of acquittal, the later has to be accepted unless the findings can be said to be completely perverse.

This application has no merit and is, accordingly,



dismissed.

It is made clear that no observation or finding recorded in the present order or in the order passed by the learned appellate court below shall have any bearing on the claim of the petitioner over the land in question in any civil proceeding relating to claim of possession and title over the same.

**(Chakradhari Sharan Singh, J.)**

Praveen-II/-

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