

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.672 of 2015

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

1. Ram Bahadur Singh Son of Late Banwari Singh resident of village - Baltara,
P.S. Gogari (Paura O.P.), District – Khagaria

.... Petitioner/s

Versus

1. The State of Bihar
2. Shashidhar Singh
3. Sudhir Singh Both sons of Late Gula Singh
4. Sohan Singh Son of Umesh Singh
5. Tuna Singh Son of Chhabu Singh
6. Murli Singh Son of Kailash Singh
2 to 6 are resident of village - Baltara, P.S. Gogari, District - Khagaria

.... Respondent/s

Appearance :

For the Petitioner : Mr. Vikramdeo Singh, Advocate
Mr. Ramesh Kumar Singh, Advocate
For the State : Mr. Kumar Ranjit Ranjan, APP

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

JUDGMENT AND ORDER
ORAL

Date: 18-11-2016

This application, under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973, has been preferred against the judgment and order, dated 17.06.2015, passed, by learned 2nd Additional Sessions Judge, Khagaria, in Criminal Appeal No. 08 of 2013, arising out of Gogri (Paura O.P.) Police Station Case No. 25 of 2007, whereby the learned Appellate Court has set aside the judgment of conviction and order of sentence, dated 22.01.2013, passed by the learned

Judicial Magistrate, 1st Class, Khagaria, in Trial No. 433 of 2013.

2. The learned Trial Court, by judgment and order, had recorded conviction of the respondent nos. 2 to 6, for the offence punishable under Section 143 of the Indian Penal Code and sentenced them to undergo simple imprisonment for a period of six months. They further stood convicted of the offence punishable under Section 447 of the Indian Penal Code and Section 379 of the Indian Penal Code, and sentenced to undergo imprisonment for a period of three months and one year respectively. For the offence punishable under Section 379 of the Indian Penal Code, a fine of Rs. 1,000/- has been imposed with the stipulation that in default, they will be required to undergo simple imprisonment for a period of one month. The sentences are to run concurrently.

3. Heard learned Counsel for the petitioner and learned Additional Public Prosecutor, appearing on behalf of the State.

4. Learned Counsel appearing on behalf of the petitioner has submitted that there is no discussion in the judgment and order of the learned Appellate Court as to why the judgment and order recording conviction was bad. According to him, learned Trial Court had rightly convicted the respondent nos. 2 to 6 of the offence punishable under

Sections 143, 447 and 379 of the Indian Penal Code.

5. The case of the prosecution needs to be briefly narrated to appreciate the submissions being advanced on behalf of the petitioner for the purpose of consideration of present revision application.

6. The petitioner claims that he had purchased a piece of land on 26.03.1957 from one Rameshwar Prasad Singh and Yogendra Prasad Singh, through sale deed, which was in his possession. Allegedly, on 26.1.2007, the accused persons, i.e. respondent nos. 2 to 6, are said to have taken out fish from the pond located in the said land. Allegedly, when the petitioner objected, the said accused persons abused him and assaulted. It has come, in course of evidence, that there was title suit pending in involving dispute over title and possession connection with the land in question between the petitioner and respondent nos. 2 to 6. The claim of the petitioner of having title and possession over the land itself was in serious dispute. Considering the evidence on record, the learned Appellate Court recorded that since the basic issue, as regards title and possession over the land is yet to be decided, the respondent nos. 2 to 6 could not be said to be guilty of offence punishable under Section 379 of the Indian Penal Code and other sections.

7. I do not find any infirmity in the view taken

by the Appellate Court. I, accordingly, do not find any merit in this application, which is accordingly dismissed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-c

AFR/NAFR	NAFR
CAV DATE	N.A.
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