

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.28 of 2016

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1. Navnit Kumar Mishra son of Late Girja Sharan Mishra Resident of village - Purhat Katiya, P.S. Hariharganj, District - Palamu (Jharkhand).

.... Petitioner/s

Versus

1. The State of Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mrs. Anita Kumari

For the Respondent/s : Mr. Pushpa Sinha 2 (App)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

4 05-12-2016 The petitioner is son of late Girija Sharan Mishra, who was put on trial for the offences punishable under Sections 467,468,420,471,409,477A,406 read with Section 34 of the Indian Penal Code. Said late Girija Sharan Mishra stood convicted at the said trial No. 1020 of 2006 by learned Judicial Magistrate, Ist Class, Aurangabad vide its judgment and order, dated 07.12.2006 of the offence punishable under Sections 467,468,471,420,477A and 409 of the Indian Penal Code. He was, accordingly, directed to undergo simple imprisonment for a period of three years and to pay a fine of Rs. 3,000/- (three thousand) for each of the offences and in default to undergo further imprisonment for a period of three months. In appeal preferred by said late Girija Sharan Mishra vide Criminal Appeal No. 105 of 2006/ 20 of 2012 in the Court of learned Additional Sessions Judge 4th, Aurangabad,



the conviction came to be affirmed by judgment and order, dated 25.05.2015. However, by the time, the judgment in the said criminal appeal could be delivered, Girija Sharan Mishra had died.

2. This criminal revision application filed under Sections 397 and 401 of the Code of Criminal Procedure, 1973 preferred by the petitioner is confined to the conviction of late Girija Sharan Mishra recorded by the trial Court and finally affirmed by the appellate Court.

3. Mr. S.B. K. Mangalam, learned counsel appearing on behalf of the petitioner, after realizing difficulty in assailing the concurrent findings recorded by the Courts below has submitted that there is one crucial aspect, which ought to have been taken note of by the Courts below. He has submitted that sufficiently before the enquiry was concluded in relation to misappropriation of the amount in question, the deceased father of the petitioner had deposited the said amount and, therefore, element of intentional misappropriation of public money was certainly absent.

4. Late Girija Sharan Mishra was admittedly posted in Sub-Post Office as Deputy Post Master. Co-accused Mithilesh Kumar Pandey had handed over three Kisan Vikas Patras of denomination Rs. 1000/- each along with one Kisan Vikas Patra No. 120BP350905 of denomination Rs.5,000/-



to said late Girija Sharan Mishra for encashment and payment of maturity value. Late Girija Sharan Mishra in turn had paid to said co-accused Mithilesh Kumar Pandey, a sum of Rs. 60,000/-. On the very same day, said Mithilesh Kumar Pandey has purchased Kisan Vikas Patra for Rs. 70,000/- from the said Post Office.

5. Collusion of the petitioner's late father and said co-accused Mithilesh Kumar Pandey in misappropriation of the amount came to be established at the trial on the basis of evidence on record. I am not convinced with the submissions advanced on behalf of the petitioner that because the petitioner's father had deposited the amount in question before enquiry report in this regard came to be submitted leading to lodging of the First Information Report and, therefore, interference with the findings is required.

6. I do not find any merit in this application, which is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

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