

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.607 of 2014

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1. Naveen Kumar Singh, Son of Late Satyadev Singh, Resident of Village-Dhang Barharwa, P.S.-Mejorganj, District-Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Vishawajeet Jha, S/o Bageshwar Jha, resident of Vill.-Manik Chocue West Tola, P.S.-Runni Saidpur, at present Happy Home Dumara Road, District-Sitamarhi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar Jha, Adv.

For the State : Mr. Ajay Kumar No.1, APP

For O.P. No. 2 : Mr. Anil Kumar Tiwary, Adv.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT & ORDER

Date: 08-11-2016

This application has been filed, under Section 397 read with Section 401 of the Code of Criminal Procedure, against the judgment and order, dated 01.05.2014, passed by learned Sessions Judge, Sitamarhi, in Cr. Appeal No. 29 of 2013, whereby, learned Sessions Judge has affirmed the conviction of the petitioner recorded by learned Sub-Divisional Judicial Magistrate, Sitamarhi, dated 25.05.2015, passed in Trial No. 104 of 2013, arising out of G.R. No. 1764 of 2006, of the offences punishable under Sections 323/34, 324/34, 341/34 and 385/34 of the Indian Penal Code. Learned trial Court, after having convicted the petitioner for the aforesaid



offences, imposed upon him sentence of imprisonment for one year each for the offences punishable under Sections 385 and 324 of the Indian Penal Code. For the offence punishable under Section 323 of the Indian Penal Code a sentence of six months of rigorous imprisonment and for the offence punishable under Section 341 of the Indian Penal Code simple imprisonment for one month has been imposed upon him. Apart from the sentence of the imprisonment, as aforesaid, learned trial Court imposed a fine of Rs. 5,000/- for each of the offences, payable to the informant after the same having been realized, as compensation, under the provisions of Section 357 (3) of the Code of Criminal Procedure.

2. Briefly narrated, the case of the prosecution is that the petitioner was working as a teacher in a school run by the informant. The petitioner, according to the case of prosecution, had demanded ransom and had assaulted the informant with dagger. After having been charge-sheeted by the police and charge having been framed, he was put on trial. At the trial, the prosecution witnesses supported the case of the prosecution. On the basis of the evidence adduced at the trial, learned trial Court arrived at the conclusion that the prosecution could prove the allegation against the petitioner beyond all reasonable doubt. Learned appellate Court concurred with the findings recorded by the learned trial Court

and affirmed the judgment of conviction and sentence passed by the learned Magistrate.

3. Learned counsel, appearing on behalf of the petitioner, has attempted to persuade me that the finding of guilt arrived at by the learned trial Court, which has been affirmed by the learned Sessions Judge, in Appeal, suffers from perversity and, therefore, this Court, in the interest of justice, should interfere with such finding. He has also submitted that the petitioner has no criminal antecedent. He further submits that at the trial, a request was made on behalf of the accused to apply the provisions of Probation of Offenders Act, 1958 in the background of the fact that the petitioner had no criminal antecedent and the genesis of occurrence was some petty dispute between the petitioner and the informant.

4. Submissions advanced on behalf of the petitioner to the extent it relates to perversity of finding of fact, recorded by the learned courts below, is not at all convincing. The finding, so recorded, cannot be said to be based on no evidence or contrary to evidence available on record. It is well accepted norm that a concurrent finding of fact should not ordinarily be interfered with in revisional jurisdiction

5. It appears that the petitioner has remained in

custody for more than a month till he was allowed regular bail by this Court *vide* order, dated 25.08.2014, after having been taken into custody and after passing of the impugned judgment of the learned appellate Court . Considering the fact that the petitioner has/had no criminal antecedent, the sentence imposed upon him by the impugned orders is modified to the period of custody already undergone by him. If the petitioner has not paid the amount of fine, as ordered in the judgment of the learned trial Court and learned appellate Court, the same must be paid within a period of two months from today. It is indicated that if the same is not paid within a period of two months, the judgment and order modifying the sentence by the present order, shall stand automatically recalled.

6. The application is, accordingly, disposed of with the observations and direction as above.

(Chakradhari Sharan Singh, J.)

Praveen-II/-c

AFR/NAFR	NAFR
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