

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

**Criminal Revision No.1009 of 2015**

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1. Rajendra Singh

2. Rajbhash Singh

Both sons of Late Jangi Singh, Resident of Village-Akhtiyarpur,  
P.S.-Karaghar, (O.P-Siddhi), District-Rohtas at Sasaram.

.... .... Petitioner/s

Versus

1. The State of Bihar.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Jai Prakash Singh, Adv.

For the Respondent/s : Mr. Uma Nath Mishra, APP

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

ORAL JUDGMENT & ORDER

**Date: 25-11-2016**

This criminal revision application, under Section 397 read with Section 401 of the Code of Criminal Procedure, has been filed by the petitioners, who are aggrieved by the judgment and order, dated 29.09.2015, passed by the learned 9<sup>th</sup> Additional Sessions Judge, Rohtas at Sasaram, in Cr. Appeal No. 14 of 2012.

**2.** Petitioner No. 1 was convicted of the offence punishable under Sections 341, 323, 504 and 325 of the Indian Penal Code by the Court of learned 1<sup>st</sup> Assistant



Sessions Judge, Rohtas at Sasaram, in Sessions Trial No. 482 of 2005, arising out of Karghar P.S. Case No. 165 of 2004 (G.R. No. 1934 of 2004), whereas, at the same trial, petitioner No. 2 was convicted for the offence punishable under Sections 341, 323, 504 and 307 of the Indian Penal Code. For the offence punishable under Section 341 of the Indian Penal Code, rigorous imprisonment for a period of 1 month, for the offence punishable under Section 323 of the Indian Penal Code, rigorous imprisonment for a period of 6 months, for the offence punishable under Section 504, rigorous imprisonment for 1 year, had been awarded as sentence against both the petitioners by the trial Court. For the offence punishable under Section 325 of the Indian Penal Code, petitioner No. 1 was directed to undergo imprisonment for a period of 3 years by the learned trial Court, whereas, for the offence punishable under Section 307 of the Indian Penal Code, petitioner No. 2 was directed to undergo rigorous imprisonment for a period of 5 years. A fine of Rs. 5,000/- and Rs. 10,000/-, respectively, were also imposed in default of which, petitioner No. 1, namely, Rajendra Singh and petitioner No. 2, namely, Rajbansh Singh, are required to undergo additional imprisonment for a period of 3 months and 6 months respectively.

**3.** The appellate Court reversed the conviction of



the petitioners under Sections 341 and 307 of the Indian Penal Code and held them guilty of the offence punishable under Sections 325 of the Indian Penal Code only and, accordingly, modified the conviction and sentence of the petitioners, under Section 325 of the Indian Penal Code, to a term of 3 years rigorous imprisonment and a fine of Rs. 5,000/- each. In the event of failure to pay the fine, the petitioners have been made to undergo additional term of 3 months rigorous imprisonment. The said appellate order, dated 29.09.2015, passed by learned 9<sup>th</sup> Additional Sessions Judge, in Cr. Appeal No. 14 of 2012, is under challenge in the present revision application.

**4.** Learned counsel for the petitioners has submitted that there being a concurrent findings recorded by the learned court below, he does not intend to question the conviction of the petitioners under Section 325 of the Indian Penal Code. He has, however, submitted that it would be evident from the materials available on the record that because of family dispute, relating to property, the occurrence had taken place and since the petitioners have remained in custody for 9 – 10 months, a lenient view may be taken on the question of award of sentence.

**5.** Considering the submission so advanced on behalf of the petitioners and the fact that the petitioners have

no criminal antecedent, I find it to be a fit case where the sentence of imprisonment needs to be modified by reducing it to the period of custody already undergone by the petitioners.

**6.** Let the petitioners be set free forthwith, if not required in any other case.

**7.** This application stands disposed of accordingly.

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

Praveen-II/-

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