

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.524 of 2016

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Chandeshwar Prasad S/o late Karu Singh R/o Village Musahari, P.S. Islampur, District Nalanda

.... Petitioner/s

Versus

1. The State of Bihar.
 2. Pappu Singh S/o Nekhu Singh
 3. Brijnandan Singh S/o Mundarik Singh
 4. Rajeshwar Singh s/o Late Mohi Prasad
 5. Ram Brichha Singh
 6. Ram Bachan Singh, both are sons of Tarkeshwar Singh
 7. Naresh Singh, Son of Bhagwant Prasad Yadav
- All R/o Village Musahari, P.S. Islampur, District Nalanda.

... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Rewti Kant Raman, Advocate.
For the Respondent/s : Mr. Akbar Ali, APP.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

6 23-03-2017 The order dated 16.02.2016 passed by the 3rd Additional Sessions Judge, Hilsa in Cr. Appeal No. 28 of 2008 whereby he has recorded acquittal of Opposite Party Nos. 2 to 7 by setting aside the judgment and order of conviction passed by the learned Judicial Magistrate, First Class, Hilsa in GR Case No. 1340 of 1999 arising out of Islampur P.S. Case No. 125 of 1999, is under challenge in the present criminal revision application filed under Section 397 read with 401 of the Code of Criminal Procedure, 1973.

The Judicial Magistrate, First Class, Hilsa by his



judgment and order dated 08.08.2008 had recorded conviction of the said opposite parties for the offences punishable under Sections 147, 148, 149 and 323 of the Indian Penal Code and sentenced them to undergo rigorous imprisonment for a period of two years for the offence punishable under Section 147 of the Indian Penal Code, three years for that under Section 148 and 149 of the Indian Penal Code and one year for the offence punishable under Section 323 of the Indian Penal Code. They were also sentenced, by the trial court, to fine for a sum of Rs.1000/- for the offence under Section 147, Rs. 2000/- for the offence under Section 148, Rs. 2000/- for the offence under Section 149 and Rs. 1000/- for the offence punishable under Section 323 of the Indian Penal Code.

What I find from the judgment of the Appellate Court is that the Court has acquitted the opposite parties chiefly on the ground that neither the investigating officer nor the doctor was examined at the trial and except the informant, no prosecution witness claimed to be an eye witness. Considering these aspects, the appellate court found it to be a fit case for giving the accused persons benefit of doubt.

Learned counsel appearing on behalf of the petitioner, who is the informant, has submitted that the injury



sustained by the informant was proved at the trial. The informant had given detailed description of the manner of occurrence in his evidence at the trial. At no stage of trial, attention of the informant was drawn by prosecution to discredit his evidence, view of the non-examination of the investigating officer and the doctor. In such circumstance, he contends that the appellate court ought not to have reversed the findings of the trial court. He has also submitted that the impugned judgment and order is not sustainable, because the court has not reversed the various findings recorded by the trial court.

Learned counsel for the petitioner has also submitted that the impugned judgment suffers from so many errors of record and, therefore, the impugned order is not sustainable.

This application has been filed against the impugned order dated 16.02.2016 in revisional jurisdiction under Sections 397 and 401 of the Code of Criminal Procedure. In my view, the ground which has been taken and the statements which have been made in support of this application are not at all sustainable in the background of admitted fact that no witness other than the informant came to support the case of the prosecution as eye witness. In addition, neither the investigating officer nor the doctor was examined to prove the injury sustained



by the informant. The submission that the appellate court ought to have reversed several findings recorded by the trial court while reversing the judgment and order of the trial court is wholly misconceived. The appellate court is not required to reverse or approve the findings recorded by the Trial Court. On independent appreciation of evidence, the appellate court has found that the opposite parties deserved to be given benefit of doubt. In Revisional jurisdiction, an order recording acquittal will require interference only in the case where findings are absolutely perverse being contrary to the evidence.

I do not find any perversity in the judgment and order dated 16.02.2016 passed by the 3rd Additional Sessions Judge, Hilsa. This application has no merit. Accordingly, the present application is dismissed.

(Chakradhari Sharan Singh, J)

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