

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.237 of 2015

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Shiv Shankar s/o Sri Suresh Prasad Singh, Village-Barat, P.S. Sitamarhi, District Nawada.

.... Petitioner/s

Versus

1.State of Bihar.

2.Ramashish Prasad Singh, s/o Late Mushafir Prasad Singh, Sakin-Barat, P.S. Sitamarhi, District Nawada.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Shiv Shankar (in person).

For the Respondent/s : Mr. Dr. Indihar Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 10-03-2017

The Opposite Party No. 2 stood convicted of the offence punishable under Section 323 of the Indian penal Code by judgment and order dated 04.02.2015 passed by learned Judicial Magistrate, IInd Class, Nawada in Trial No. 192 of 2015. He was put on trial on the charge of conviction of the offences punishable under Sections 337, 341 and 504 of the Indian Penal Code. He has, however, been acquitted of the said charges by the said judgment.

The court below after having convicted the opposite party of the offence punishable under Section 323 of the Indian Penal Code, instead of imposing any sentence, gave him benefit of Probation of Offenders Act, 1958 and has released him on due admonition. The said judgment and order dated 04.02.2015, is being assailed in the present application filed under Section 397 and 401 of



the Cr.P.C by the petitioner, who is the informant of the case, which gave rise to corresponding Trial No. 192 of 2015, in the court of learned Judicial Magistrate, IInd Class, Nawada.

The petitioner-in-person has submitted that on the basis of evidence adduced at the trial, the offences punishable under Sections 337 of 504 of the Indian Penal Code also stood proved. He has further submitted that in any case, after having held the opposite party guilty of the offence punishable under Section 323 of the Indian Penal Code, the court below ought not to have given him the benefit of Probation of Offenders Act, 1958, considering the seriousness of the offence.

I do not find any substance in the submission made by the petitioner. This court in exercise of revisional jurisdiction under Section 397 read with Section 401 of the Cr.P.C is not required to reappreciate evidence, which have been appreciated by the trial court. The findings of the trial court recording acquittal of the opposite party no. 2, of the offences punishable under Sections 337 and 504 of the Indian Penal Code, in my view cannot be said to be perverse requiring this court's interference.

Now, coming to the question of sentence; from the record it appears that the petitioner and Opposite Party No. 2 are closely related. The petitioner is own nephew of the Opposite Party



No. 2. The injuries were found to be simple in nature. There was no proof before the court below of any previous conviction of opposite party no. 2. In such circumstance, if the court below has given the benefit of Probation of Offenders Act, 1958, the same cannot be said to be wholly unjustifiable requiring this Court's interference.

I do not find any merit in the application. It is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

Ranjan/-

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