

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.252 of 2017

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1. Gena Pandey, Son of Late Raja Pandey.
2. Munna Pandey, Son of Gena Pandey. Both residents of Village-
Lakshhnauta, Police Station- Gaunaha, District- West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar

For the Respondent/s : Mr. Sri Pranav Kumar

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

4 06-04-2017

Heard learned counsel for the parties.

2. After having been convicted of the offence under Section 323 of the Indian Penal Code, the petitioners have been sentenced to undergo simple imprisonment for a period of three months by the Court of learned Vth Additional Sessions Judge, West Champaran at Bettiah.

3. Learned counsel for the petitioners has submitted that without any cogent evidence, the Court below has recorded conviction of these petitioners under Section 323 of the Indian Penal Code. It transpires that the petitioners have already remained in custody for nearly two months. I do not find, the findings recorded by the Court below holding the petitioners guilty of the offence under Section 323 of the Indian Penal Code to be



palpably wrong. The Court below has considered the evidence of witnesses as well as the inconsistencies in the evidence of such witnesses. The petitioners were charged of the offence punishable under Sections 447, 341, 323, 324, 326, 307, 504 read with Section 34 of the Indian Penal Code. The Court below did not hold them guilty of the offence except the offence under Section 323 of the Indian Penal Code. The findings, in my opinion, does not require any interference.

4. Learned counsel for the petitioners has submitted that this is for the first time that the petitioners have been convicted and the Court below ought to have given the benefit under Section 4 of the Probation of Offenders Act.

5. Be that as it may, in the facts and circumstances, I consider it to be a fit to modify the sentence, without interfering with the judgment of conviction. The sentence of three months' imprisonment is, hereby, modified to the period the petitioners have already undergone in custody.

6. This application stands disposed of with the modification in the sentence as indicated above.

(Chakradhari Sharan Singh, J)

ArunKumar/-

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