

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.734 of 2014

Arising Out of PS.Case No. -null Year- null Thana -null District- PATNA

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1. Awadhesh Das S/o Mahesh Das Resident of Village Madhopur, Harijan Tola,
P.O. Madhopur, P.S. Maner, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Tejan Rai S/o Awadh Rai
3. Sri Bhagwan Rai W/o Hemant Rai Respondent No. 2 and 3 are Resident of
Village Jainagar Madhopur, P.O. Madhopur, P.S. Maner, District Patna.
4. Sri Arun Singh S/o Late Shiv Prasad Singh Resident of Village + P.O.
Madhopur, P.S. Maner, District Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar No. 1

For the Respondent/s : Mr. Md. Fahimuddin, APP

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

JUDGMENT AND ORDER
ORAL

Date: 19-01-2017

Heard learned Counsel for the petitioner and
learned Additional Public Prosecutor representing the State.

2. The petitioner is aggrieved by judgment and
order, dated 02.04.2013, passed, in Criminal Appeal No. 111
of 2011, by the learned Additional Sessions Judge IV, Danapur
(Patna), whereby he has reversed the judgment and order of
conviction and sentence, dated 25.03.2011, passed by learned
Judicial Magistrate, 1st Class, Jamui, in Complaint Case No.
255 (C) of 1999, giving rise to Trial No. 14 of 2010.



3. Learned Judicial Magistrate, 1st Class, Jamui, after recording conviction of Opposite Party Nos. 2, 3 and 4 of the offence punishable under Section 379 of the Indian Penal Code, had sentenced them to undergo rigorous imprisonment for a period of two years and a fine of Rs. 2,000/-, in default of payment of fine, they were directed to undergo rigorous imprisonment for a further period of six months.

4. The learned Appellate court, however, reversed the conviction and sentence, mainly on the ground of apparent contradiction in the evidence of the prosecution witnesses. The learned Appellate court also took into consideration, while recording acquittal of Opposite Party Nos. 2, 3 and 4 the fact that most of the prosecution witnesses were highly interested witnesses related with the complainant.

5. During the pendency of this application, Opposite Party No. 4 is said to have died. This application, as against Opposite Party No. 4, thus, abates.

6. Learned Counsel appearing on behalf of the petitioner has submitted that only on the ground that some of the witnesses were related to each other and complainant also, their evidence could not have been brushed aside by the learned Appellate Court. According to him, the learned Trial Court had rightly convicted the Opposite Party Nos. 2, 3, and 4, upon proper appreciation of evidence adduced at the trial,



which conclusively proved beyond all reasonable doubts, that the Opposite Party Nos. 2, 3, and 4 had committed the offence.

7. I have perused the impugned judgment and order, dated 02.04.2013, passed by the learned Additional Sessions Judge IV, Danapur (Patna), as also the judgment and order, dated 25.03.2011, passed by the learned Judicial Magistrate, 1st Class, Danapur (Patna).

8. It transpires that with an allegation that Opposite Party Nos. 2, 3, and 4 had committed theft of mangoes from the petitioner's orchard in the year 1999, Complaint Case No. 255 (C) of 1999 was registered. The trial arising out of the said complaint case concluded in conviction of the Opposite Party Nos. 2, 3, and 4 of the offence punishable under Section 379 of the Indian Penal Code. As has been noticed above, the learned Appellate court reversed the conviction and recorded acquittal of the Opposite Party Nos. 2, 3, and 4.

9. While considering revision application against an order recording acquittal, reversing findings of conviction by a Trial Court, it has to be kept in mind that unless the findings arrived at by the learned Appellate Court appeared to be completely perverse, no interference will be needed.

10. It is well established principle that if two views



are possible and one view, which is favourable to the accused, has been accepted, the same will not require any interference by a Court. On analysis of the evidence on record, the view, which has been taken by the learned Additional Sessions Judge IV, Danapur (Patna), in the impugned judgment and order, cannot be said to be not a reasonably possible view.

11. Learned Counsel appearing on behalf of the petitioner has attempted to convince me that there was enough evidence to show that the land, in question, belonged to the petitioner and he was in possession over the said land, which was proved at the trial with the support of the documentary evidence (Exhibits 2 and 2/A).

12. That, *per se*, could not have been the basis of recording conviction of the Opposite Party Nos. 2, 3, and 4. The impugned judgment and order requires no interference.

13. I do not find any merit in this application. This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	19.01.2017
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