

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.1237 of 2016

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

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1. Rakesh Singh, Son of Shyam Chandra Singh
2. Ramesh Singh, Son of Sukchandra Singh, Both resident of Village- Chaknathan,
P.S.- Paroo, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Ravindra Singh, Son of Late Hattu Singh, resident of Village- Laxmipur Ariar,
P.S.- Saraiya, District- Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ganesh Prasad Singh

For the Respondent/s : Mr. Md. Ansarul Haque

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

JUDGMENT AND ORDER
ORAL

Date: 27-04-2017

I. A. NO. 2351 OF 2016

I.A. No. 2351 of 2016 has been filed by the petitioners, under Section 5 of the Limitation Act, seeking condonation of delay of 08 days in preferring the present criminal revision application.

2. Having considered the reasons assigned in the present petition seeking condonation of delay and having heard the learned counsel for the parties, this Court is satisfied that the petitioners were prevented by sufficient causes from preferring the application within time.



3. In view of the above, the delay of 08 days, in preferring the present application, is hereby condoned.

4. I.A. No. 2351 of 2016 stands disposed of.

CRIMINAL REVISION NO. 1237 OF 2016

5. The petitioners were convicted, upon trial on the charge of offences punishable under Sections 341/342/420/34 of the Indian Penal Code. The Trial Court, i.e. the Court of learned Sub Divisional Judicial Magistrate (West), Muzaffarpur, by judgment and order, dated 29.11.2011, held them guilty of the offence punishable under Section 341 and 347 read with Section 34 of the Indian Penal Code.

6. The case of the prosecution, as narrated in the First Information Report, giving rise to Saraiya Police Station Case No. 187 of 2004, is that on the alleged date of occurrence, when the informant (Opposite Party No. 2) was going to his house along with his wife and son, these petitioners came on two motorcycles and wrongfully restrained them. The petitioner no. 1 allegedly pointed a pistol on Opposite Party No. 2 and obtained forcibly his left thumb impression on a blank paper.

7. On the basis of evidence adduced at the trial, the Court, though found offences punishable under Sections 341 and 347 read with Section 34 of the Indian Penal Code to



be proved against these petitioners, acquitted them of the charge under Section 420 read with Section 34 of the Indian Penal Code, by the impugned judgment and order.

8. The Appellate Court of learned Additional Sessions Judge VIII, Muzaffarpur, by judgment and order, dated 30.07.2016, passed in Criminal Appeal No. 12 of 2011, has affirmed the judgment of conviction.

9. This is to be noted that the petitioners upon their conviction have been given benefit of the provisions of Section 4 of the Probation of Offenders Act, 1958.

10. The finding of conviction recorded by the learned Appellate Court is being assailed mainly on the ground that since the charge constituting offence under Section 420 of the Indian Penal Code was in relation to same transaction, which could not be established and the petitioners were acquitted of the said charge, the conviction recorded by the Courts below of the charge under Sections 341 and 347 read with Section 34 of the Indian Penal Code is perverse, requiring interference by this Court.

11. I do not find any substance in the submission so advance on behalf of the petitioners.

12. On the basis of the evidence adduced at the trial, the prosecution could establish only that part of the charge against the petitioner beyond all reasonable doubt,



which related to commission of offences punishable under Section 341 and 347 read with Section 34 of the Indian Penal Code. The Courts below accordingly recorded conviction. Since the prosecution failed to establish, beyond all reasonable doubt, the allegation of obtaining left thumb impression of Opposite Party No. 2 on a blank paper by inducement of force at the trial and, therefore, the learned Courts below recorded their acquittal of the charge punishable under Section 420 read with Section 34 of the Indian Penal Code.

13. I do not find any perversity in the impugned judgments and orders. The findings recorded by the Courts below cannot be said to be suffering from such perversity as would have required interference by this Court in criminal revisional jurisdiction.

14. I do not find any merit in this application, which is accordingly dismissed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	01.05.2017
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