

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.1040 of 2016

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

- =====
1. Ram Naresh Pandey S/o Late Ram Swaroop Pandey.
 2. Ajay Pandey
 3. Sunil Pandey
 4. Naveen Pandey @ Navin Kumar S/o Ram Naresh Pandey All resident of Village- Rampur, P.S.- Surajgarha, District- Lakhisarai.

.... Petitioners

Versus

1. The State of Bihar
2. Dharmendra Pandey, Son of Umeshwar Pandey, Resident of Village Rampur, P.S. Surajgarha, District Lakhisarai

.... Respondent

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Appearance :

For the Petitioner : Mr. Parmanand Pd. Nr. Sahi, Advocate

For the State : Mr. Shantanu Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 14-11-2017

Heard learned counsel for the petitioners as well as learned Additional Public Prosecutor appearing on behalf of the State.

2. This revision application though is directed against the judgment dated 10.06.2016, passed by learned Sessions Judge, Lakhisarai in Criminal Appeal No.4 of 2010 whereby upholding the conviction under Sections 323 and 341 of the Indian Penal Code modified the sentence passed by the trial court and directed to release the petitioners giving benefit under Section 4(1) of the Probation of Offenders Act (hereinafter referred to as 'the Act') further directing to execute a bond of Rs.2000/- with two sureties to maintain good behaviour and peace for a period of one year and in the event of breach of the undertaking during such period shall be directed to undergo the sentence.

3. However, the learned counsel appearing on behalf of the



petitioners limits his argument only to the point that the petitioners are not required now to execute bond. Now the petitioners are not challenging the conviction. However, as far as execution of the bond is concerned, the petitioners giving benefit of the Act under Section 4(1) could have been released only after entering into a bond because Section 4(1) of the Act itself is categorical that the court instead of sentencing the convicts at once to any substantive punishment directs for release only after entering into a bond but in the present case the trial court had awarded substantive punishment and the appellate court modifying the sentence directed to release the appellants on executing a bond giving benefit of Section 4(1) of the Act, so the execution of bond is mandatory in nature, it cannot be waived off.

4. Since the concurrent findings of both the courts regarding conviction has not been agitated in the revision application and this Court also does not find any miscarriage of justice, so the revision application stands dismissed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
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