

IN THE HIGH COURT OF JUDICATURE AT PATNA
SLA No.8 of 2017

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Md. Abuzar, aged about 45 years, Son of Late Md. Arif Hussain, Resident
of Village & P.O. Dighaun, P. S. Beldaur, District- Khagaria

.... Appellant/s

Versus

1. The State of Bihar
 2. Md. Mohiuddin, Son of Late Yasim Kuraisi
 3. Nahid Begum, wife of Md. Mohiuddin
 4. Md. Nazimuddin Jami, Son of Md. Mohiuddin
- All resident of Mahatma Gandhi Marg, Baluahi, P. S. & District Khagaria
.... Respondent/s
- =====

Appearance :

For the Appellant/s : Mr. Shitanshu Shekhar Mishra

For the Respondent/s : Mr. Sri Shyed Ashfaque Ahmad

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

4 20-04-2017 The petitioner seeks leave to prefer appeal against the judgment and order, dated 24.11.2016 passed by the learned Additional Sessions Judge, 4th , Khagaria in Criminal Appeal No. 57 of 2014, whereby he has reversed the finding of conviction of Respondent Nos. 2 to 4 of the offence punishable under Section 420 of the Indian Penal Code recorded by learned Sub Divisional Judicial Magistrate, Khagaria in his judgment and order, dated 10.06.2014 passed in Complaint Case No. 960C of 2005.

The case of the prosecution is that the petitioner was induced by the Respondent No.2 to pay a sum of Rs. 1, 20,000/- for securing job of a Lecturer in a College. Neither the petitioner got employment as Lecturer in any College nor the Respondent



No.2 returned the amount.

Respondent No.3 is wife of Respondent No.2 whereas Respondent No.4 is son of Respondent No.2. Other two persons have been implicated on the ground that the Respondent No.2, after having taken amount from the petitioner had handed over the same to Respondent No.2, who had counted the notes and kept them.

Learned trial Court upon appreciation of evidence on record, particularly evidence of the complainant's witnesses held the Respondent Nos. 2 to 4 guilty of the offence punishable under Section 420 of the Indian Penal Code, though charge was framed under Section 406 of the Indian Penal Code also.

The appellate Court has reversed the finding holding that the prosecution could not establish the case beyond all reasonable doubt.

I have perused the judgment and order passed by the learned 4th Additional Sessions Judge, Khagaria, dated 24.11.2016. The appellate Court has dealt with evidences and appreciated them independently and has come to the conclusion that the case of the prosecution was highly improbable. He also took note of the fact that there was no advertisement for appointment as Lecturer in College in the State of Jharkhand and,



therefore, there would have been no question of inducing the petitioner on that ground and thereby making him pay the said amount of Rs. 1, 20,000/- for that purpose.

In any view of the matter, what I find that evidence adduced at the trial have been appreciated by the two Courts below; one by the trial Court and other by the appellate Court. The appellate Court has reversed the conviction and has recorded acquittal on the basis that the prosecution failed to establish the case beyond all reasonable doubt. It is trite that if the two views are possible on the basis of same set of facts, one which is favourable to the accused has to be accepted unless the other view cannot be said to be a reasonably possible view. Any finding recording acquittal of an accused will require interference in revisional jurisdiction only if the findings appear to be completely perverse. I do not find such situation in the present case.

It is not a fit case for grant of leave to appeal. This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

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