

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Revision No.555 of 2017**

Arising Out of PS. Case No.-4 Year-2003 Thana- PURUSHOTTAMPUR District- West  
Champaran

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Chhotelal Prasad, son of Late Mukhlal Sah, resident of Village- Parsa, Police  
Station- Purshottampur, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar., ,
  2. Dhanilal Sah, son of Jangi Sah,,
  3. Jeeut Sah, son of Late Gajar Sah,,
  4. Om Prakash Sah, son of Late Gajar Sah,,
  5. Jagdeesh Sah, son of Late Gajar Sah,
- All are resident of Village- Parsa, Police Station- Pursottampur, District-  
West Champaran.

... .. Respondent/s

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**Appearance :**

|                      |   |                        |
|----------------------|---|------------------------|
| For the Petitioner/s | : | Mr. Sanjay Kumar No.-7 |
| For the Respondent/s | : | Mr. RAJBALLABH SINGH   |

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

**ORAL JUDGMENT**

**Date : 21-07-2017**

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

2. The Appellate Court, i.e. the Court of learned  
Additional Sessions Judge I, West Champaran, at Bettiah, by  
judgment and order, dated 24.01.2017, passed in Criminal  
Appeal No. 45 of 2012, has reversed the findings of conviction  
recorded by learned Judicial Magistrate, 1<sup>st</sup> Class, Bettiah, West  
Champaran, in G. R. No. 116 of 2003 (Trial No. 113 of 2012),  
arising out of Purushottampur Police Station Case No. 04 of



2003.

3. The Trial Court, after having held Opposite Party Nos. 2 to 5 guilty of the offences punishable under Section 323, 324 and 325, read with Section 34 of the Indian Penal Code, sentenced them to undergo imprisonment for a term of one year, two years and three years respectively.

4. Learned Appellate Court, however, has reversed the finding by the judgment and order, as indicated above, which is under challenge in the present criminal revision application.

5. Learned Counsel appearing on behalf of the petitioner, who is the informant of this case, has submitted that the learned Appellate Court has not, at all, discussed as to why the reasons recorded by the learned Trial Court for convicting the Opposite Party Nos. 2 to 5 of the aforesaid offences, deserved to be upset. He has submitted that the witnesses have been consistent in supporting the case of the prosecution and the prosecution was able to establish the charges beyond the shadow of all reasonable doubts. Learned Counsel has also submitted that the evidence of the witnesses adduced at the trial stood fully corroborated by the injury report, which has been proved by the doctor. According to him, the judgment of



acquittal by the learned Appellate court is erroneous and perverse, considering the consistent evidence adduced by the prosecution witnesses on record.

6. I have perused the judgment and order passed by the learned Trial Court and the learned Appellate Court and have seen other materials on record.

7. Learned Counsel appearing on behalf of the petitioner has produced before me certified copies of the depositions of witnesses at the trial, which I have perused and considered.

8. It is settled principle that if on the basis of evidence adduced at the trial, two courts take different views, one which is favourable to the accused should normally be accepted, unless the said view can be said to be perverse or not a reasonably possible view. It is also settled principle that a revisional court is not required to re-evaluate and re-assess the evidence, once re-evaluation of evidence has already been done by the Appellate Court.

9. Before considering the evidence adduced at the trial, it is to be kept in mind, which is evident from the deposition of the prosecution witnesses that the petitioner's family and the Opposite Party Nos. 2 to 5 had some dispute over



a piece of land and that was the reason for the quarrel, which had ensued leading to the occurrence, said to have taken place on 18.11.2002. No First Information Report was lodged immediately thereafter. A complaint petition was filed on 21.11.2002. Except an averment that the police did not lodge First Information Report, there is no explanation for delay of three days in filing the complaint case. Though the delay only may not be fatal, such delay shall certainly have bearing on the case, while scrutinizing the evidence adduced at the trial.

**10.** In the present case, if the allegation made in the complaint petition is taken to be true, the petitioner's son, Ramashish, had sustained grievous injuries in his head. There is nothing to show that information to this effect was, immediately thereafter, sent to the Police Station or he was taken to any Government Hospital immediately thereafter.

**11.** The material contradictions in the depositions of the witnesses are apparent. PW 1 is the brother of the victim (PW 2). In cross-examination, he deposed that his brother (PW 2) was unconscious and he was treated at Narkatiaganj. He further deposed that the victim or the said PW 2 was not treated in a Government Hospital and they were treated by a doctor having expertise in Cataract (*Motiabind*). PW 1 did not disclose



the name of the doctor, who had treated the victim. PW 2, in his cross-examination, on the other hand, deposed that he was treated in a Government Hospital, at Bettiah, where he was admitted for 4-5 days. He also deposed that he (PW 2) and his brother (PW 1) was also admitted in the hospital, which is apparently different from the deposition of PW 1.

**12.** Considering these aspects and the fact that the accused and the informant were on litigating terms, the learned Appellate Court appears to have rightly recorded acquittal of Opposite Party Nos. 2 to 5.

**13.** It is well accepted norm that if there are two judgments, one holding an accused to be guilty and the other acquitting him, though on the standards of benefit of doubt, one which is in favour of the accused should, normally be accepted unless finding of acquittal appears to be suffering from perversity or such view cannot be said to be a reasonably possible view. The Court, in revisional jurisdiction, can interfere with the finding of acquittal if on the basis of evidence adduced at the trial, it can be conclusively held that conviction can be the only possible view and any other view is impossible.

**14.** In view of the above observations, I do not feel inclined to interfere with the judgment and order, under



challenge.

15. This application is devoid of merit and is disposed of accordingly.

( Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

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| AFR/NAFR          | NAFR       |
| CAV DATE          | N/A        |
| Uploading Date    | 23-08-2017 |
| Transmission Date | 23-08-2017 |

