

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.680 of 2016

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1. Sudama Prasad Kushwaha, Son of late Guli Prasad Kushwaha, Resident of Village Aamawa Kararia, Police Station Kotwa, District West Champaran at Present resides resident of Villge Bada Bariyarpur, Police station Chhatani District West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar
2. Ramjeet Sah, Son of Raghubir Sah
3. Lal Bahadur Sah, Son of Raghubir Sah
4. Chanarjeet Sah, Son of Raghubir Sah
5. Yashoda Devi, Wife of Late Mohan Sah
6. Shankar Sah, Son of late Moan Sah

All Are Resident of Village-Bada Bariyarpur, Police Station Chhatauni, District East Champaran.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Lalan Kr. Verma, Adv.

For the State : Mr. Nirmal Kr. Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT & ORDER

Date: 31-01-2017

Though the matter has been listed under the heading “For Orders” with certain office notes, pointing out the defects in the present application, the matter has been heard on merit, after ignoring the defects as pointed out.



2. Heard the parties.

3. The petitioner in the present criminal revision application, filed under Section 397 read with Section 401 of the Code of Criminal Procedure, is aggrieved by judgment and order, dated 12.04.2016, passed by learned 14th Additional Sessions Judge, East Champaran at Mothiari, in Cr. Appeal No. 43 of 2013, whereby, he has allowed an appeal preferred by opposite party Nos. 2 to 6 against judgment of conviction and order of sentence, dated 27.04.2013, passed by learned Judicial Magistrate, Ist Class, Sadar Motihari, in Complaint Case No. 1085C of 2009 and has accordingly recorded their acquittal.

4. Learned trial Court had recorded conviction of opposite parties of offence punishable under Sections 323 and 504/34 of the Indian Penal Code and had sentenced opposite party Nos. 3, 4 and 6 to undergo simple imprisonment for 1 year for the offence punishable under Section 323 of the Indian Penal Code besides fine of Rs. 1,000/-. For the offence punishable under Section 504 of the Indian Penal Code, they were directed to undergo simple imprisonment for 2 years and a fine of Rs. 2,000/- and in default of payment of fine to undergo simple imprisonment for 1 month. As regards opposite party Nos. 2 and 5, the learned trial Court had released them on bond of good conduct for a period of 3 years under



Section 4 of the Probation of Offenders Act.

5. Learned counsel, appearing on behalf of the petitioner, has submitted that the appellate Court has fallen in serious error while upsetting the findings recorded by the trial Court, as finding of the appellate Court is based on irrelevant fact that there was land dispute between the petitioner and opposite party Nos. 2 to 6. He has submitted that evidence, adduced at the trial, clearly proved commission of offence under various sections of the Indian Penal Code, as mentioned above. He further submits that since the charge stood proved beyond all reasonable doubt, the appellate Court ought not to have interfered with the findings of the trial Court.

6. I have perused the judgments and orders passed by the learned trial Court and the appellate Court as well. It is evident from the materials on record that the piece of land, over which the occurrence is said to have taken place, was in serious dispute on the question of title and possession between the petitioner and opposite party No. 2. I find that the appellate Court noticed serious dispute between the parties with respect to title and possession of the land over which the occurrence is said to have taken place. Considering the evidence on record, the appellate Court, giving the opposite parties benefit of doubt, has recorded acquittal.

7. On perusal of the impugned judgment and order,



passed by the lower appellate Court, I find that the view, so taken by the learned appellate Court, cannot be said to be not a reasonably possible view. If there are two views possible, on the basis of same set of evidence, and one view has been taken by the appellate Court, in my opinion, it will not be just for this Court to interfere in exercise of revisional jurisdiction under Section 397 read with Section 401 of the Code of Criminal Procedure. I do not find any merit in this application.

8. This criminal revision application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
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