

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.148 of 2017

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1. Saryug Mahton, Son of Late Achambhi Mahton, resident of Village Sanha, Naya Tola, Police Station- Sahebpur Kamal, District- Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Chaukidar 8/5 Naresh Paswan, Son of Late Mahavir Paswan, resident of Village Sanha, Police Station Sahebpur Kamal, District- Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Viveka Nand Singh

For the Respondent/s : Mrs. Smt. Anita Kumari Singh

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

3 04-04-2017 Heard learned counsel for the parties.

2. By impugned judgment and order, dated 29.10.2016 passed by learned Additional Sessions Judge-IV, Begusarai in Criminal Appeal No. 25 of 2006, the judgment of conviction of the petitioner under Sections 379/411 of the Indian Penal Code recorded by the learned Judicial Magistrate Ist Class, Begusarai in Trial No. 754 of 2006 has been affirmed. The trial Court had sentenced the petitioner to undergo rigorous imprisonment for a period of two years after having held him guilty of the offence punishable under Sections 379/411 of the Indian Penal Code. The order of sentence has, however, been modified by the appellate Court and the petitioner has been given the benefit of Section 4 of the Probation of Offenders Act, keeping in mind the facts that



the petitioner had no earlier conviction in any criminal case. The appellate Court, while giving the petitioner benefit of Section 4 of the Probation of Offenders Act has asked him to surrender before the Court below within three months and furnish a bond of Rs. 5,000/- with two sureties for maintaining peace and good behaviour, for a period of two years.

3. The present application has been filed against the aforesaid two orders passed by the Courts below.

4. Learned counsel appearing on behalf of the petitioner has submitted that on the basis of evidence adduced at the trial the guilt of the petitioner can not be said to have been proved beyond all reasonable doubt. He has accordingly submitted that the Courts below ought to have been recorded acquittal of the petitioner.

5. I am not convinced with the submission advanced on behalf of the petitioner that this Court should interfere in criminal revisional jurisdiction, with concurrent findings of fact, leading to conviction of the petitioner on facts recorded by the Courts below. The findings so recorded, in my opinion, cannot be said to be perverse, being contrary to evidence or without any evidence.

6. Considering the mitigating and attenuating circumstance the appellate court has duly modified the order



of sentence by giving the petitioner benefit under Section 4 of the Probation of Offenders Act. The said order does not require interference at all.

7. Learned counsel for the petitioner has submitted that the petitioner is undergoing treatment in Mumbai of carcinoma and he is not in a position to furnish the bond as directed by the Court below within the period prescribed. The said period granted by the Court below for furnishing bail bond to maintain peace and good behaviour is, hereby, extended for a period of six months from today.

8. This application is, accordingly, disposed of.

(Chakradhari Sharan Singh, J)

ArunKumar/-

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