

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.559 of 2017

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1. Md. Shibli @ Md. Shivbali, son of Late Sk. Saleem,
2. Bibi Sairun, wife of Late Sk. Saleem,
3. Bibi Ruhi, wife of Seraj @ Minu,
4. Md. Shakil, son of late Sk. Saleem,
5. Md. Afroz @ Guddu, son of late Sk. Saleem,
6. Bibi Kahkashan Bano @ Usha, wife of Md. Shibli,

All residents of Mohalla- Barahpura, Police Station- Ishaqchak, District- Bhagalpur.

.... Petitioner/s

Versus

The State of Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s :

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

10 14-11-2017 Heard learned counsel for the petitioners and learned
counsel for the State.

Petitioners have preferred this revision application against order dated 17.03.2017 passed by the 2nd Additional Sessions Judge, Bhagalpur in Criminal Appeal No. 10 of 2016 thereby has upheld conviction of the petitioners only under Section 323 of I.P.C. but acquitted from the charge under Section 498A of I.P.C. giving benefit of doubt however also modified sentence of imprisonment of six months rigorous imprisonment for committing offence under Section 323 of I.P.C. by releasing



them after admonition giving benefit of Section 3 of the Probation of Offenders Act.

Learned counsel for the petitioners submits that there is no any cogent evidence to prove the charge under Section 323 of IPC even the same has not been discussed by the appellate court. He submits that neither any injury report nor any doctor was examined so the conviction under Section 323 of I.P.C. too cannot be sustained. He further submits that altogether 09 prosecution witnesses have been examined, out of which PW-1 and PW-5 turned hostile and they have only stated that accused persons were quarreling; PW-6, PW-7 and PW-8 all are brothers of the informant and were not eye witness as they have not seen any part of occurrence, so except PW-9, who is informant, no one has supported the case of the prosecution.

The Court finds that it is not the case that the informant was treated by any Medical Officer or any doctor or there was any injury report rather it was a case of simple assault and the case is based on oral evidence of the witnesses. Evidence of the witnesses has been discussed by the trial court as well as by the appellate court with regard to assault caused to the informant. The informant (PW-9) has supported his case of assault against the accused persons and her testimony is reliable to that extent. So there is apparently no any manifest error of law or glaring defect



in procedure in holding the petitioners guilty under Section 323 of I.P.C. Accordingly, finding no merit, this revision application stands dismissed.

(Arun Kumar, J)

Sujit/-

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