

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.974 of 2018

Arising Out of PS.Case No. -null Year- null Thana -null District- BHAGALPUR

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Julesh Kumar Singh @ Nishu Son of Arvind Singh resident of Village- Udhadih,
P.S. Sultanganj, District- Bhagalpur.

.... Petitioner

Versus

The State of Bihar

.... Respondent

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Jha with Mr. Mrityunjay
Kumar Mishra, Advocates

For the Respondent/s : Mr. Shailendra Kumar -I

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA

ORAL JUDGMENT

Date: 17-09-2018

The revision application is directed against the order dated 4.7.2018 passed by Sri Ram Shreshtha Roy, Sessions Judge, Bhagalpur in Cr.Appeal No. 43 of 2018, whereby and whereunder he has dismissed the appeal of the petitioner on the ground of limitation which has been preferred against the order dated 11.4.2017 passed by Sri Sagir Alam, A.C.J.M.-V, Bhagalpur in connection with Sultanganj P.S.Case No. 70 of 2009, corresponding to G.R.No.1332 of 2009, by which the appellant-petitioner has been convicted for the offences under Sections 341, 354 and 506 of the Indian Penal Code and sentenced to undergo simple imprisonment for 15 days under Section 341 IPC and further sentenced to undergo rigorous imprisonment for one year and fine of Rs.2000/- under Section 354 IPC and a fine of



Rs.2000/- under Section 506 IPC and in default of payment of fine the appellant-petitioner was directed to suffer further rigorous imprisonment for 15 days and sentences were directed to run concurrently.

2. Submission of learned counsel for the petitioner is that the appellate court has dismissed the appeal only on the ground of limitation and learned trial court by a cryptic order without considering that there is no evidence under Section 354 IPC available on record has convicted the appellant-petitioner under Sections 341, 354 and 506 IPC, including fine with default clause, as stated above.

3. Heard learned counsel for the State also.

4. It appears that a case has been lodged by PW 4 Shiv Priya Kumari stating that on 30.4.2009 at about 11.30 A.M. when she was going to cast her vote, at some distance from her house, the petitioner abused her and threatened to shoot her and earlier also he has committed same kind of offence but due to intervention of respectable persons the matter was pacified. On the basis of aforesaid written report Sultanganj P.S. Case No. 70 of 2009 dated 1.5.2009 under Sections 341, 354 and 506 IPC was registered against the petitioner and after investigation charge sheet was submitted and cognizance of the offence was also taken against the petitioner. During trial the prosecution has examined altogether four witnesses, they are PW 1



Rukmini Devi, mother of informant, PW 2 Sanjay Kumar Singh, PW 3 Vimal Kumar Singh has been declared hostile and PW 4 is informant Shiv Priya Kumari. From perusal of trial court judgment it appears that PW 4 (informant) has reiterated the allegation made in her written report and stated that petitioner has abused and threatened to shoot her and except that there is no such allegation against the petitioner. So far Section 354 IPC is concerned, which provides as follows :

“Assault or criminal force to woman with intent to outrage her modesty. – Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

And according to that whoever assaults or outrages modesty of any woman but in the present case there is absolutely nothing in the evidence of PW 4 to show that petitioner has assaulted her and outraged her modesty and in the facts and circumstances it appears that no case under Section 354 IPC is made out against the petitioner and learned appellate court has dismissed the appeal only on the ground of limitation.

5. In such view of the matter, the conviction of the appellant-petitioner under Section 354 IPC does not appear to be sustainable in



the eye of law. So far conviction under Sections 341 and 506 IPC is concerned, submission of learned counsel for the petitioner is that petitioner has remained in custody for more than one month.

6. Accordingly, this revision application is partly allowed. Conviction of the petitioner under Section 354 IPC is set aside. So far conviction and sentence under Sections 341 and 506 IPC are concerned, no interference is required as petitioner has remained in custody for more than one month.

(Vinod Kumar Sinha, J)

spa/-

AFR/NAFR	
CAV DATE	
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