

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.679 of 2018

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1. RAM GULAM PASWAN @ SHANKER PASWAN, S/o Late Kishun Paswan, resident of Village- Chhoti Keshopur, P.S.- Jamalpur, District-Munger.

.... Petitioner/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. P.K.Singh

For the Respondent/s : Mr. Sri Madhuranand Jha

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

4 09-10-2018

This revision application has been preferred against the judgment and order dated 9.5.2017 passed by the Sessions Judge, Lakhisarai in Criminal Appeal No.13 of 2014 by which he has affirmed the judgment and order passed by Sri V.V. Gupta, Railway Magistrate, Kiul, Lakhisarai, by which the petitioner was convicted under Section 3(a) of the R.P. (U.P.) Act, 1966 and also affirmed that order of sentence for two years under Section 3(a) of the R.P. (U.P.) Act, 1966 and a fine of Rs.5,000/- in default.

The prosecution case in short is that the appellant was arrested carrying railway property and thereafter a case was lodged under Section 3(a) of the R.P. (U.P.) Act and later on the petitioner was tried by the court of Sri V.V Gupta, Railway



Magistrate and he has been convicted under Section 3 (a) of the R.P. (U.P.) Act and sentenced to undergo R.I. for two years with a fine of Rs.5,000/-, against which the petitioner preferred appeal which has also been dismissed and the judgment and order of the learned trial court has been affirmed. Against which the present revision application has been preferred.

The learned counsel for the petitioner has confined his argument on the point of sentence and submitted that in this case the judgment of appellate court shows that earlier also the petitioner was convicted in two other cases as such the order of the learned Magistrate regarding sentence appears to be just and proper, however, the learned Magistrate has convicted the appellant under Section 3 (a) of the R.P. (U.P.) Act, which provides punishment for first offence and secondly the previous conviction of the petitioner can be looked into under Section 211 of the Cr.P.C. Sub Section 7 only when details of the previous conviction is mentioned in the charge but no such charge has been framed in this case and hence, conviction of the appellant is only for the first offence. The case is of the year, 2004 and 14 years has elapsed and the petitioner appears to be 50 years of age at the time of conviction by the learned trial court and considering the same and the rigors and agony he has



suffered for 14 long years, his sentence may be reduced to the minimum sentence of one year.

Having heard both sides and in view of the discussions as made above, the judgment of the learned trial court and the appellate court is affirmed, however, considering the fact for 14 long years, petitioner has faced the agony and humiliation of trial and furthermore conviction appears to Under Section 3 (a) of the R.P.(U.P.) Act as such the sentence is reduced from R.I. for two years and fine of Rs.5,000/- to R.I. for one year and a fine of Rs.1,000/- and in default S.I. for two months.

The petitioner will be entitled for set off in accordance with provision contained in Section 428 of the Cr.P.C. for the period in which he has already remained in custody.

With the aforesaid modification, this revision application is dismissed.

(Vinod Kumar Sinha, J)

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