

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.464 of 2015

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Munna Sahni, Son of Late Chamman Sahni, Resident of Machuatoli, P.S. –
Kadam Kuan, Town and district – Patn.

.... Petitioner/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Laxmi Narayan Das

For the Respondent/s : Mr. P.K. Pandey (App)

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

4 01-11-2018 This revision application has been filed against the order dated 25.04.2015 passed by the learned Adhoc Additional Sessions Judge –IV, Patna in Criminal Appeal No. 223/2004, whereby, he affirmed the judgment of trial court convicting the accused persons under Section 147 and 426 of the Indian Penal Code. However, in stead of confirming the sentence of one year, he has released the accused persons on due admonition and on probation of good conduct.

It appears that the petitioner is the complainant, who had filed the Complaint Case No. 235(C) of 1994 against the opposite party nos. 2 to 11 and one Shivram Sahni, who died during Trial with the allegation that the on 10.03.1994 at 8 A.M., the accused persons ransacked his shop and removed all the articles kept in the shop and also Rs. 1,000/- and broken the shop. It further appears that the charges were framed under Sections 147, 380 and 426 of



the Indian Penal Code. Thereafter, learned Judicial Magistrate, after trial vide his judgment dated 09.12.2004 has held the accused persons guilty under Section 147 and 426 of the Indian Penal Code and sentenced them to undergo R.I. for one year.

It further appears that opposite party nos. 2 to 11 preferred Criminal Appeal No. 223/2004, before the Sessions Judge, Patna and the same was disposed of vide judgment dated 25.04.2015 passed by Adhoc Additional Sessions Judge –IV, Patna affirming the conviction of the accused persons under Section 147 and 426 of the Indian Penal Code. However, instead of confirming the order of sentence of the accused persons has released them on due admonition of good conduct.

Being aggrieved by the aforesaid judgment, the petitioner has preferred the present revision application.

Submission of learned counsel for the petitioner is that the Adhoc Additional Sessions Judge –IV, Patna has confirmed the conviction of the petitioner but instead of confirming the order of sentence released the petitioner on due admonition and on probation of good conduct, which is against the provisions of law, as such, order dated 25.04.2015 passed by the learned Adhoc Additional Sessions Judge –IV, Patna in Criminal Appeal No. 223/2004 is not sustainable in the eye of law.



Heard learned APP also.

Having heard both sides, from perusal of the record, it appears that the occurrence is of the year 1994 and already 24 years has lapsed after the occurrence and it further appears that the Judicial Magistrate, while passing the order of sentence has not considered the application of Section 360 of Cr.P.C or application of Probation of Offenders Act and he has also not assigned any reasons for not extending the said benefit to the accused persons, which is against the provisions of Section 361 Cr.P.C. and as such, considering the same, the learned Adhoc Additional Sessions Judge –IV, Patna has modified the sentence of the accused persons and released them on probation of good conduct, which appears to be just and proper and I find no illegality or impropriety in the same.

Hence, this revision application is devoid of merit, accordingly dismissed.

(Vinod Kumar Sinha, J)

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