

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.578 of 2018

Arising Out of PS. Case No.-2 Year-2009 Thana- Government Official Comp. District-
Darbhanga

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Mukesh Kumar Singh, S/o Late Saryug Prasad Singh, R/o Vill.- Sinuara, P.S.-
Bahadurpur, District- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Girish Chandra Jha, Advocate.

For the Respondent/s : Mr. Sri Rajeev Nayan, APP

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL JUDGMENT

Date : 13-09-2018

This revision application is directed against the judgment dated 10.12.2014 passed by Mr. Ambika Prasad Gupta, Adhoc Additional Sessions Judge-4, Darbhanga in Criminal Appeal No. 23 of 2014 by which he has affirmed the conviction of the appellant-petitioner under Section 47(a) of the Bihar Excise Act, 1915 (hereinafter referred to as the 'Act') and sentenced him to undergo rigorous imprisonment for two years.

The aforesaid criminal appeal was preferred against the judgment and order dated 02.04.2014 passed by the Sub Divisional Judicial Magistrate, Darbhanga in G.O.Case No. 02 of 2009 (Trial No. 992 of 2014).

The prosecution case as it appears from perusal of the record that in total 174.600 litres illegal foreign liquor was recovered. In course of trial, petitioner was convicted under Section 47(a) of the Act and was sentenced to undergo rigorous imprisonment for two years and that order has been affirmed by the learned Adhoc Additional Sessions Judge-4, Darbhanga by the impugned judgment.

Learned counsel for the petitioner, in stead of challenging



the judgment on merit, confined his argument on the question of sentence and submitted that petitioner has remained in custody for five months and it is his first offence as such sentence may be modified to the period already undergone. He further submits that Section 47(a) provides for, for the first offence he shall be liable for imprisonment for a term which shall not be less than three months and a fine of not less than five hundred rupees and in default of payment of fine a further imprisonment for a term of one month and in this case, the petitioner has already remained in custody for five months and it is his first offence.

Heard learned A.P.P. also.

Having heard both sides and considering the discussions made above, I find that there is no illegality or impropriety in the impugned judgment of conviction passed by the trial court and upheld by the appellate court however considering the age of the petitioner and also considering the fact that it is his first offence, the period of sentence is reduced from two years rigorous imprisonment to five months rigorous imprisonment and is directed to pay a fine of Rs.1000/- and in default of payment of fine amount, further to undergo simple imprisonment for a period of one month.

With the aforesaid modification in sentence, this revision application is disposed of.

(Vinod Kumar Sinha, J)

sujit/-

AFR/NAFR	NAFR
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