

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1173 of 2018

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1. Suresh Bharti, S/o Late Manager Bharti,
2. Pintu Bharti S/o Suresh Bharti, Both Vill.- Chiraiya Mathiya, P.S.-
Siwan (Chainpur O.P.), District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Neeraj Kumar @ Sanidh, Adv.
Mr. Raghav Prasad, Adv.

For the Respondent/s : Mr. Anil Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

2 30-10-2018 The instant revision application has been filed by the petitioners against the judgment dated 23.06.2018 passed by Shri Raj Kumar, Additional Sessions Judge –VI, Siwan in Cr. Appeal No. 51 of 2017, by which, the judgment of conviction and order of sentence dated 04.08.2017 passed by the Additional Chief Judicial Magistrate –VII, Siwan, in G.R. No. 2223/2017, TR No. 2021/2017, whereby the petitioners and other accused persons were convicted under Sections 147, 341/149, 324/149, 504/149 of the Indian Penal Code and were sentenced to undergo S.I. for two year under Section 147 of the Indian Penal Code along with fine of Rs. 5,00/- each having default clause, S.I. for one year under Section 341/149 with a fine of Rs. 5,00/- each having default clause, S.I. for one year under Section 323/149 of the Indian Penal Code with a fine of Rs. 5,00/-each, having default clause, three



years imprisonment under Section 324/149 with a fine of Rs. 1,000/- having default clause and further S.I. for two years under Section 504/149 of the Indian Penal Code with a fine of Rs. 5,00/- each having default clause was modified and petitioners in the present revision application were convicted under Section 324 of the Indian Penal Code along with a fine of Rs. 1,000/- having default clause and rest of the accused persons were released by giving them the benefit of Section 3 of Probation of Offenders Act.

2. Prosecution case in short is that while informant and his brother was sitting before their house. In the meantime, from behind, accused persons armed with *lathi, danda, garasa and knife* came and started beating the informant. On seeing this, the female members of the house of informant make hue and cry. Accused persons, namely, Urmila Devi and Kaushalya Kunwar came and started abusing the informant. The informant received injury in his neck caused by *garasa* and his brother Sheshnath Bharti also sustained injury.

3. During trial prosecution has examined altogether eight witnesses including the doctor and also brought some documents on record and after trial, the petitioners and other accused persons were convicted under Sections 147, 341/149, 324/149, 504/149 of the Indian Penal Code and were sentenced in the manner



aforesaid, which was modified by judgment dated 23.06.2018 passed by Shri Raj Kumar, Additional Sessions Judge –VI, Siwan in Cr. Appeal No. 51 of 2017.

4. Learned counsel for the revisionists – petitioners has confined his argument to the extent that the materials available on record clearly shows that there was land dispute between the parties and in F.I.R only general and omnibus allegation has been attributed to all the accused persons, however, contrary to that during Trial only the petitioners have specifically been assigned the role to have inflicted the *garasa* and knife blow. It has further been submitted that other accused persons have been released by giving them the benefit of Section 3 of Probation of Offenders Act. However, the said privilege has not been extended to the petitioners and for that no reasons have been assigned. Further submission is that there is nothing available on record to show that the petitioners were previously convicted in connection with any other case, as such, the petitioners also entitled to be released under Section 3 of Probation of Offenders Act.

5. Learned counsel appearing on behalf of the State has submitted that specific allegation has been attributed against the petitioners to have assaulted the informant and his brother by means of *garasa* and knife causing injuries to them and, therefore, there is no infirmity in the impugned judgments.



6. Having gone through the impugned judgments as well as considered the submissions of the parties, it appears that in the F.I.R. no specific allegation has been attributed either to the petitioners or to any accused persons but during trial evidence of witnesses established the fact that it is the petitioners who are said to have inflicted the *garasa* and knife blow upon the informant and his brother and, therefore, I do not find any illegality in the conviction of the petitioners under Section 324 of the Indian Penal Code. However, so far sentence is concerned, considering the fact that it is the first offence of the petitioners and there is nothing on record to show that they were previously convicted in connection with any other case. As such, instead of confirming the sentence, I deem it appropriate to release the petitioner under Section 4 of the Probation of Offenders Act on probation for a period of six months to maintain piece and harmony in the society on execution of bond of Rs. 5,000/- each.

7. With the above modification in sentence, this revision application stands dismissed.

(Vinod Kumar Sinha, J)

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