

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Revision No.29 of 2018**

Arising Out of PS. Case No.-19 Year-2002 Thana- SAUR BAZAR District- Saharsa

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Rajendra Prasad Gupta son of Late Manohar Sah @ Manohar Pd. Gupta,  
resident of Village- Patarghat, P.S. Saur Bazar, District- Saharsa.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. Sushil Sah son of Late Sahdeo Sah
3. Chandan Sah son of Sushil Sah resident of Village- Patarghat Bazar, P.S. Saur Bazar, District- Saharsa.

... .. Respondent/s

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**Appearance :**

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|----------------------|---|-----------------------------|
| For the Petitioner/s | : | Mr.Lakshmi Kant Tiwary, Adv |
| For the Respondent/s | : | Mr. Sanjay Kumar Singh, APP |

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**CORAM: HONOURABLE MR. JUSTICE S. KUMAR**

**ORAL JUDGMENT**

**Date : 15-01-2019**

Heard parties.

This criminal revision application is directed against the order dated 28.08.2017 passed by Additional Chief Judicial Magistrate, 1st Saharsa in G.R. No. 103 of 2002 arising out of Saur Bazar P.S. Case No. 103 of 2002, by which the court below has given accused opposite party no. 2 benefit of Section 3 of Probation of Offenders Act and released them though they were found guilty for offences under Sections 323 and 379 of the IPC.

Petitioner and Informant had lodged FIR on 13.02.2002 alleging therein that while he was constructing his boundary wall, accused-opposite party Sushil Shah and Chandan Shah



came with *lathi* and prevented him from construction the boundary wall and also assaulted him causing injury over his leg and back and Sushil Shah took away Rs. 1200/- from his pocket and Chandan Shah snatched his Kohinoor Watch giving rise to Saur Bazar P.S. Case No. 19 of 2002 instituted under Section 341, 323, 379 read with 34 of IPC.

Police after investigation submitted chargesheet against opposite party Sushil Shah and Chandan Shah upon which court below took cognizance against opposite party nos. 2 and 3 under Section 341, 323, 379 read with 34 of IPC and charges were also framed under said sections.

Six witnesses were examined on behalf of prosecution, however, no witnesses were examined by defence.

The trial court found the charges under Sections 323 and 379 of the IPC proved against accused-opposite party nos. 2 and 3 and convicted them who were taken into custody on the date of judgment dated 28.08.2017, and after hearing both the parties on the point of sentence accused-opposite party nos. 2 and 3 were released from custody after giving benefit of section 3 of Probation of Offenders Act. While hearing both the parties on the point of sentence the trial court has taken into account the



fact that it was the first offence committed by opposite party nos. 2 and 3 and as such were given the benefit of Section 3 of Probation of Offenders Act.

This court does not find any error or illegality in the order dated 28.08.2017 passed by Additional Chief Judicial Magistrate, 1st Saharsa in G.R. No. 103 of 2002 arising out of Saur Bazar P.S. Case No. 103 of 2002, and as such is not inclined to interfere with the same.

Accordingly, this criminal revision petition is dismissed.

**(S. Kumar, J)**

ranjan/-

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