

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1040 of 2018

Arising Out of PS. Case No.-103 Year-1997 Thana- LAHERIMUHALLA District- Nalanda

1. Shiv Kumar Prasad S/o Late Baleshwar Prasad Sinha,
2. Manju Devi @ Manju Kumari, W/o Shiv Kumar Prasad,
Both resident of Village- Noawan, P.S. Asthawan, District- Nalanda.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ajit Ranjan Kumar

For the Respondent/s : Mr. Pawan Kumar Chaurasiya

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 05-02-2019

Heard learned counsel for the parties.

This criminal revision petition has been filed for setting aside the judgment and order dated 05.07.2018 passed by learned 6th Additional District & Sessions Judge, Nalanda at Biharsharif in Criminal Appeal No. 34 of 2012 by which he has dismissed the appeal of petitioners filed against judgment of conviction and order of sentence passed by Judicial Magistrate, 1st Class-cum-Additional Munsif, Nalanda at Biharsharif in Trial No. 584 of 2012 (G.R. No. 1333 of 1997).

Prosecution story is based upon a written complaint filed by Awadesh Kumar Singh, District Education Officer, Biharsharif on 11.07.1997 in which for committing forgery and misappropriation of fund FIR was instituted against the



petitioners giving rise to Laheri P.S. Case No. 103 of 1997 dated 11.07.1197 under Section 419, 420, 120B/34 of IPC.

Allegations in the FIR is that accused Manju Kumari encashed the draft made in the name of complainant Pramila Devi of Rs. 96,000/- which was amount of group insurance which was to be paid to the complainant being the widow of Late Chandramani Prasad, Assistant Teacher, Primary School, Sahabad, Giriyak impersonating her as Pramila Devi and misappropriated whole amount. Petitioner no. 1 Shiv Kumar Prasad was a co-accused and is husband of petitioner no. 2 Manju Devi. Police after investigation found the charges to be proved and submitted chargesheet on 28.11.1997 and learned Chief Judicial Magistrate took the cognizance on 04.06.1998 under section 420, 419, 120B/34 of IPC. The charges were framed on 28.03.2001 under section 420, 120B, 419/34 of IPC which were explained to the accused but they pleaded not guilty and claimed to be tried.

Prosecution has examined four witnesses. PW-1 is Pramila Devi who is the victim and sufferer and widow of a government employee and on whose death a draft of Rs. 96,000/- was handed over to her by the District Education Officer, but the same was forcibly taken away by accused



Manju Devi and Pramila Devi impersonating herself as Manju Devi opened an account and encashed the draft. PW-2 is Awadhesh Kumar Singh, District Education Officer, Madhepura, who is the Informant of this case. PW-3 is Bhawana Verma who is the I.O. of this case. She has stated in her deposition that she had gone through the records of Post-Office containing information about the bankdraft for a sum of Rs. 96,000/- of Pramila Devi and after finding the allegations to be true against the accused persons he submitted chargesheet.

PW-4 is formal witness. The prosecution has produced and proved Exhibit-1 to Exhibit-8 in support of its case.

The trial court has found charges under Section 419 of IPC to be not proved beyond all reasonable doubts. However, the trial court has found charges under Section 420 and 120B of the IPC to be proved against the accused-petitioner. The trial court has imposed simple imprisonment for 3 years and fine of Rs. 2000/- on the accused-petitioners and in case of failure to pay the fine further directed to undergo simple imprisonment for six months.

Aggrieved by the judgment of conviction and order of sentence, petitioners preferred Criminal Appeal No. 34 of 2012 and after hearing the petitioners same was dismissed by 6th



Additional Sessions Judge, Nalanda at Bihar Sharif by his order dated 05.07.2018 in Criminal Appeal No. 34 of 2012.

After going through the judgment of conviction and order of sentence passed by the trial court and affirmed by the Appellate Court, this Court does not find any error or infirmity or illegality in the order passed by the court below. As such, the present criminal revision petition is dismissed. It has been submitted that the petitioners have been sufficiently punished and it is their first offence as such, some leniency may be shown and sentence passed may be reduced. Considering the prayer of petitioners, the order of sentence is modified to the extent of period already undergone.

In the result, the judgments and orders passed by both the courts are affirmed, however, sentence is modified to the period already undergone. Petitioners may be released forthwith if not wanted in any other case.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.02.2019
Transmission Date	09.02.2019

