

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL REVISION No.1016 of 2018

Arising Out of PS. Case No.-322 Year-1988 Thana- FATUA (KHUSHRUPUR) District- Patna

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Lalit Kumar Son of Late Ram Nandan Singh, Resident of Jarwan, P.S.-
Dhanarua, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opp. Party/s

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Appearance :

For the Petitioner/s : Mr. Rikesh Sinha, Advocate

For the State : Mr. Md. Arif, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date : 15-11-2019

Heard learned counsel for the petitioner and learned APP
for the State.

2. The petitioner has moved the Court against the order dated 18.05.2018 passed by the 6th Additional District and Sessions Judge, Patna City in Criminal Appeal No. 35 of 2016 which was dismissed upholding the judgment and order of conviction and sentence dated 09.02.2016 passed by the ACJM, Patna City in GR No. 1024 of 1988/Trial No. 9 of 2016 arising out of Fatuha (Khushrupur) PS Case No. 322 of 1988.

3. The petitioner, along with six others, was chargesheeted and faced trial for kidnapping the son of the



informant. Upon conviction, they were convicted under Sections 365 and 386 of the Indian Penal Code and sentenced to 3 years simple imprisonment and Rs. 3,000/- fine under Section 365 of the Indian Penal Code and 3 years simple imprisonment and fine of Rs. 2500/- under Section 386 of the Indian Penal Code and in the event of non-payment of the fine amount were to undergo further six months imprisonment under each section.

4. Learned counsel for the petitioner submitted that the only role assigned to the petitioner is that the victim boy was taken to his village/home from where he was forwarded to another village. It was submitted that no other overt act is attributable to him and even the victim boy has not stated as to what role he had played except for saying in his deposition during trial that he was taken through village of the petitioner also.

5. At this stage, learned counsel drew the attention of the Court to the judgment passed by a co-ordinate bench on 17.09.2018 in Criminal Revision No. 947 of 2018 by which co-accused Naresh Singh @ Naresh Mahto and Ghamandi Paswan have been given relief and the impugned judgments of both the Trial Court as well as the Appellate Court against them have been set aside. Further, attention was drawn to judgment dated 17.09.2018 in Criminal Revision No. 1027 of 2018 by which



another co-accused Kapil Paswan has also been granted similar relief. Copies of the same have been brought on record in the supplementary affidavit filed on behalf of the petitioner.

6. Learned APP, from the Lower Court Records, did not controvert the submissions made by learned counsel for the petitioner. However, he submitted that the victim boy was taken to the village/home of the petitioner and, thus, he was equally responsible for committing the crime of kidnapping the victim who was recovered by the police.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that the evidence which has come against the petitioner is not sufficient to convict him under Sections 365 and 386 of the Indian Penal Code. Even the role assigned to him not being specific or proved beyond reasonable doubt cannot be the basis of such conviction. Further, the petitioner being better placed than co-accused to whom the co-ordinate bench has granted relief, this Court is also persuaded to interfere in the matter.

8. Accordingly, the application is allowed.

9. The impugned judgments of the Trial Court as well as the Appellate Court, as far as the petitioner is concerned, are set aside. The petitioner is discharged of the liability of his bail bonds.



10. The Lower Court Records be returned forthwith.

(Ahsanuddin Amanullah, J)

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