

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No. 590 of 2018

Arising Out of P.S. Case No.-9 Year-2008 Thana- NAWANAGAR District- Buxar

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Ayodhya Sharma, Son of Late Daroga Sharma @ Baban Sharma, Resident of
Village Usara, P.S.- Nawanagar, District- Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satyapal Singh, Advocate

For the State : Dr. Mrityunjaya Kumar Gautam, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 05-09-2019

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

2. The petitioner has moved the Court under Sections
397 and 401 of the Code of Criminal Procedure against the
judgment and order dated 27.03.2018 passed in Cr. Appeal No. 57
of 2017 by the District and Sessions Judge, Buxar by which the
judgment and order of conviction and sentence dated 03.08.2017
passed by the ACJM, V, Buxar in GR Case No. 76 of 2008 arising
out of Nawanagar (Sonbarsa) PS Case No. 09 of 2008, has been
upheld.



3. The petitioner is accused of threatening to kill the informant by pointing loaded country made pistol due to some dispute and altercation relating to passage.

4. It was submitted that the petitioner had pointed the country made pistol at the head of the informant and upon cry others came and snatched the country made pistol which was handed over to the police.

5. Learned counsel for the petitioner submitted that the story is false and concocted to harass the petitioner. It was submitted that there is dispute relating to passage between the parties. It was further submitted that as per the statement of witnesses during trial, the majority of them had stated that the so called country made pistol and cartridge were produced before the police at the *thana* and only one witness has stated that the police came to the place of occurrence and was given the firearm and cartridge. It was submitted that even the said firearm and cartridge were not sealed as would be clear from the deposition of PW 10, who had brought the seized arm and ammunition as in his cross examination he has stated that he had brought the seized material in a plastic bag and nothing was written over the bag. It was submitted that the Sergeant Major, PW 6 has not stated that the arm and ammunition were brought to him under sealed cover



which is also not been stated, either in the FIR or in the seizure list. Learned counsel submitted that even the circumstances show that the petitioner has been falsely implicated, inasmuch as, it has been stated by the informant himself that the petitioner was caught from his house where he was hiding. It was submitted that it was unbelievable that 4 persons, who are said to have taken the firearm and cartridge from the petitioner would let him go and would not detain him and further if the petitioner was involved he would not have remained in his house and would have fled away to some other place, but the fact that the petitioner has arrested from his house shows that he is innocent being unaware of any such incident which never took place.

6. Learned APP, from the Lower Court Records, could not controvert such submission of learned counsel for the petitioner.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that sufficient doubt has been created with regard to the veracity of the allegation against the petitioner and, thus, the petitioner deserves to be given the benefit of such doubt.

8. Accordingly, the application stands allowed. The order of conviction and sentence of the trial Court as well as the



appellate order stand set aside. The petitioner stands discharged from the liabilities of his bail bonds.

9. The Lower Court records be returned forthwith.

(Ahsanuddin Amanullah, J.)

Anand Kr.

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